



IOWA ADMINISTRATIVE BULLETIN

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September 9, 2020

NUMBER 6
Pages 441 to 518

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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, paragraph, subparagraph, or numbered paragraph).

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)
441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2020

NOTICE† SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 26 '19	Jan. 15 '20	Feb. 4 '20	Feb. 19 '20	Feb. 21 '20	Mar. 11 '20	Apr. 15 '20	July 13 '20
Jan. 8	Jan. 29	Feb. 18	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27
Jan. 24	Feb. 12	Mar. 3	Mar. 18	Mar. 20	Apr. 8	May 13	Aug. 10
Feb. 7	Feb. 26	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24
Feb. 21	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sep. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sep. 21
Mar. 20	Apr. 8	Apr. 28	May 13	**May 13**	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	**June 24**	July 15	Aug. 19	Nov. 16
May 13	June 3	June 23	July 8	July 10	July 29	Sep. 2	Nov. 30
May 29	June 17	July 7	July 22	July 24	Aug. 12	Sep. 16	Dec. 14
June 12	July 1	July 21	Aug. 5	Aug. 7	Aug. 26	Sep. 30	Dec. 28
June 24	July 15	Aug. 4	Aug. 19	**Aug. 19**	Sep. 9	Oct. 14	Jan. 11 '21
July 10	July 29	Aug. 18	Sep. 2	Sep. 4	Sep. 23	Oct. 28	Jan. 25 '21
July 24	Aug. 12	Sep. 1	Sep. 16	Sep. 18	Oct. 7	Nov. 11	Feb. 8 '21
Aug. 7	Aug. 26	Sep. 15	Sep. 30	Oct. 2	Oct. 21	Nov. 25	Feb. 22 '21
Aug. 19	Sep. 9	Sep. 29	Oct. 14	Oct. 16	Nov. 4	Dec. 9	Mar. 8 '21
Sep. 4	Sep. 23	Oct. 13	Oct. 28	**Oct. 28**	Nov. 18	Dec. 23	Mar. 22 '21
Sep. 18	Oct. 7	Oct. 27	Nov. 11	**Nov. 12**	Dec. 2	Jan. 6 '21	Apr. 5 '21
Oct. 2	Oct. 21	Nov. 10	Nov. 25	Nov. 27	Dec. 16	Jan. 20 '21	Apr. 19 '21
Oct. 16	Nov. 4	Nov. 24	Dec. 9	**Dec. 9**	Dec. 30	Feb. 3 '21	May 3 '21
Oct. 28	Nov. 18	Dec. 8	Dec. 23	**Dec. 23**	Jan. 13 '21	Feb. 17 '21	May 17 '21
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Dec. 9	Dec. 30	Jan. 19 '21	Feb. 3 '21	Feb. 5 '21	Feb. 24 '21	Mar. 31 '21	June 28 '21
Dec. 23	Jan. 13 '21	Feb. 2 '21	Feb. 17 '21	Feb. 19 '21	Mar. 10 '21	Apr. 14 '21	July 12 '21

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
8	Friday, September 18, 2020	October 7, 2020
9	Friday, October 2, 2020	October 21, 2020
10	Friday, October 16, 2020	November 4, 2020

PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

****Note change of filing deadline****

NOTE: See also the Advisory Notice on page 518.

CORRECTIONS DEPARTMENT[201]

Community-based corrections; OWI program, 40.1, 40.2, 47.1(4), 47.2(3) IAB 8/26/20 ARC 5145C	Jessie Parker Building 510 East 12th St. Des Moines, Iowa	September 15, 2020 11 a.m. to 1 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Military exchange license issuance—removal of fee, 12.1, 13.17(3)“f” IAB 9/9/20 ARC 5168C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	September 30, 2020 1 p.m.
Substitute authorizations, 13.16, 22.2, 24.4 IAB 9/9/20 ARC 5169C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	September 30, 2020 1 p.m.

EDUCATION DEPARTMENT[281]

General accreditation standards, rescind 12.10(8) IAB 8/26/20 ARC 5149C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via video conference: idoe.zoom.us/j/98138678227?pwd=NE11VUVldEtTd29QbnlsaVhhdytXZz09	September 15, 2020 2 to 2:15 p.m.
Funding for children residing in state institutions or mental health institutes—removal of reference to Iowa juvenile home, 34.1, 34.2, 34.4(2), 34.6(3)“d” IAB 8/26/20 ARC 5150C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via video conference: idoe.zoom.us/j/98138678227?pwd=NE11VUVldEtTd29QbnlsaVhhdytXZz09	September 15, 2020 2:15 to 2:30 p.m.
Special education—clearing classrooms, 41.320(7) IAB 8/26/20 ARC 5151C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via video conference: idoe.zoom.us/j/98138678227?pwd=NE11VUVldEtTd29QbnlsaVhhdytXZz09	September 15, 2020 3 to 4 p.m.
Educator preparation program standards, 79.2, 79.14(7)“a,” 79.15(2), 79.16, 79.17, 79.21(2) IAB 8/26/20 ARC 5148C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via video conference: idoe.zoom.us/j/98138678227?pwd=NE11VUVldEtTd29QbnlsaVhhdytXZz09	September 15, 2020 4 to 4:30 p.m.
School leadership standards for administrators, 83.10 IAB 8/26/20 ARC 5147C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via video conference: idoe.zoom.us/j/98138678227?pwd=NE11VUVldEtTd29QbnlsaVhhdytXZz09	September 15, 2020 2:30 p.m.

EDUCATION DEPARTMENT[281](cont'd)

Corporal punishment, physical restraint, seclusion, and other physical contact with students, ch 103

IAB 8/26/20 **ARC 5146C**

State Board Room, Second Floor
Grimes State Office Bldg.
Des Moines, Iowa

Via video conference:

idoe.zoom.us/j/98138678227?pwd=NE11VUVldEtTd29QbnlsaVhhdytXZz09

September 15, 2020
3 to 4 p.m.

INSURANCE DIVISION[191]

Licensing—producers, viatical settlement brokers, viatical settlement providers, public adjusters, amendments to chs 10, 48, 55, 58

IAB 8/26/20 **ARC 5162C**

Via conference call
Contact Tracy Swalwell

Email: tracy.swalwell@iid.iowa.gov

September 15, 2020
10 a.m.

NURSING BOARD[655]

Administrative and regulatory authority—hiring and supervising of executive director, 1.3(2)“j”

IAB 9/9/20 **ARC 5164C**

Board Office, Suite B
400 S.W. 8th St.
Des Moines, Iowa

September 29, 2020
9 to 10 a.m.

Nursing practice for registered nurses/licensed practical nurses, ch 6

IAB 9/9/20 **ARC 5172C**

Board Office, Suite B
400 S.W. 8th St.
Des Moines, Iowa

September 29, 2020
9 to 10 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Dietitians—licensure, telehealth visits, 81.4, 81.7, 81.17

IAB 8/26/20 **ARC 5156C**

Fifth Floor Board Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

September 15, 2020
1 to 1:30 p.m.

Speech pathologists and audiologists—continuing education hours, 303.3(2)“f”

IAB 9/9/20 **ARC 5163C**

Option 1: Join Webex hearing on www.webex.com, click “JOIN,” then enter the following information:
Meeting ID Number: 1465147897
Password: bZ9afPM@

Option 2: Join by video system
1465147897@webex.com

Option 3: Join by phone +1 408.418.9388 (toll)

Access code: 146 514 789 7

September 29, 2020
9 to 9:30 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Standards for electrical work—2020 National Electrical Code (NEC), 504.1, amend ch 504

IAB 8/26/20 **ARC 5152C**

First Floor Public Conference Room 125
Oran Pape State Office Bldg.
Des Moines, Iowa

September 17, 2020
10 a.m.

TRANSPORTATION DEPARTMENT[761]

Abandoned vehicles, amendments
to ch 480
IAB 9/9/20 **ARC 5170C**

Via conference call
Contact Tracy George
Email: tracy.george@iowadot.us

October 1, 2020
9 to 10 a.m.
(If requested)

Motorized bicycle rider education,
602.2(1), 636.1, 636.2, 636.4 to
636.9
IAB 8/26/20 **ARC 5154C**

Via conference call
Contact Tracy George
Email: tracy.george@iowadot.us

September 17, 2020
10 to 11 a.m.
(If requested)

UTILITIES DIVISION[199]

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and procedure, ch 26
IAB 7/29/20 **ARC 5107C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

October 20, 2020
9 a.m. to 12 noon

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 5168C

EDUCATIONAL EXAMINERS BOARD[282]**Notice of Intended Action****Proposing rule making related to military exchange license issuance fee and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 12, “Fees,” and Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2.

Purpose and Summary

The proposed amendments remove the military exchange license issuance fee, which will reduce fees for military exchange license applicants and streamline accounting.

Fiscal Impact

The Board issues approximately 25 military exchange licenses per year. This amendment would reduce the Board’s collections by \$10 per military exchange license, for a total estimated fiscal impact of approximately \$250 per year.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 2, 2020. Comments should be directed to:

Kimberly Cunningham
Board of Educational Examiners
701 East Court Avenue, Suite A
Des Moines, Iowa 50319
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

September 30, 2020
1 p.m.

Board Room
701 East Court Avenue, Suite A
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 282—12.1(272) as follows:

282—12.1(272) Issuance of licenses, certificates, authorizations, and statements of professional recognition. All application and licensure fees are nonrefundable. The fee for the issuance of a license, certificate, statement of professional recognition, or authorization shall be \$85 unless otherwise specified below:

1. Class E emergency license shall be \$150.
2. Paraeducator certificate shall be \$40.
3. Behind-the-wheel authorization shall be \$40.
4. Military exchange license shall not require a fee for issuance.

ITEM 2. Rescind paragraph 13.17(3)“f.”

ARC 5169C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Proposing rule making related to substitute authorizations and providing an opportunity for public comment

The Educational Examiners Board hereby proposes to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Chapter 22, “Authorizations,” and Chapter 24, “Paraeducator Certificates,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272.2.

Purpose and Summary

The proposed amendments will add substitute authority to holders of the career and technical education authorization, professional service license, and native language teaching authorization; remove the day limit for substitute authorization holders; change the degree requirement from

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

a bachelor's degree to an associate's degree or 60 semester hours of college coursework from a regionally accredited institution; allow for reciprocity; and add a substitute authorization as an area of concentration for paraeducators.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on October 2, 2020. Comments should be directed to:

Kimberly Cunningham
Board of Educational Examiners
701 East Court Avenue, Suite A
Des Moines, Iowa 50319-0147
Fax: 515.281.7669
Email: kim.cunningham@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 30, 2020
1 p.m.

Board Room
701 East Court Avenue, Suite A
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 282—13.16(272) as follows:

282—13.16(272) Specific requirements for a substitute teacher's license.

13.16(1) and **13.16(2)** No change.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

13.16(3) Authorization. The holder of a substitute license is authorized to substitute teach in any school system in any position in which a regularly licensed teacher is employed except in the driver's education classroom. In addition to the authority inherent in the initial, standard, master educator, professional administrator, regional exchange, full career and technical education authorization, full native language teaching authorization, professional service license, and permanent professional licenses and the endorsement(s) held, the holder of one of these regular licenses may substitute on the same basis as the holder of a substitute license while the regular license is in effect. The executive director may grant permission for a substitute to serve outside of a substitute's regular authority under unique circumstances.

ITEM 2. Amend rule 282—22.2(272) as follows:

282—22.2(272) Substitute authorization. A substitute authorization allows an individual to substitute in grades PK-12 ~~for no more than 5 consecutive days and no more than 10 days in a 30-day period in one job assignment~~ for a regularly assigned teacher who is absent, except in the driver's education classroom. ~~A school district administrator may file a written request with the board for an extension of the 10-day limit in one job assignment on the basis of documented need and benefit to the instructional program. The licensure committee will review the request and provide a written decision either approving or denying the request. An individual who holds a paraeducator certificate without a bachelor's degree and completes the substitute authorization program is authorized to substitute only in the special education classroom in which the individual paraeducator is employed. For these individuals, the authorization will appear on the paraeducator certificate and will not include separate renewal requirements.~~

22.2(1) Application process. Any person interested in the substitute authorization shall submit records of credit to the board of educational examiners for an evaluation in terms of the required courses or contact hours. Application materials are available from the office of the board of educational examiners, online at www.boee.iowa.gov or from institutions or agencies offering approved courses or contact hours.

a. Requirements. Applicants for the substitute authorization shall meet the following requirements:

(1) Authorization program. Applicants must complete a board of educational examiners-approved substitute authorization program consisting of the following components and totaling a minimum of 15 clock hours:

1. Classroom management. This component includes an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

2. Strategies for learning. This component includes understanding and using a variety of learning strategies to encourage students' development of critical thinking, problem solving, and performance skills.

3. Diversity. This component includes understanding how students differ in their approaches to learning and creating learning opportunities that are equitable and are adaptable to diverse learners.

4. Ethics. This component includes fostering relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development and to be aware of the board's rules of professional practice and competent performance.

(2) Degree or certificate. Applicants must have achieved at least one of the following: a minimum of an associate's degree or 60 semester hours of college coursework from a regionally accredited institution.

1. ~~Hold a baccalaureate degree or higher from a regionally accredited institution.~~

2. ~~Completed an approved paraeducator certification program and hold a paraeducator certificate.~~

(3) and (4) No change.

b. Additional requirements. An applicant under this subrule shall be granted a substitute authorization and will not be subject to the authorization program coursework if the following additional requirements have been met:

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(1) Verification of Iowa residency or, for military spouses, verification of a permanent change of military installation.

(2) Valid or expired substitute authorization in good standing from another state without pending disciplinary action, valid for a minimum of one year, exclusive of a temporary, emergency license or certificate.

~~b. c.~~ *Validity.* The substitute authorization shall be valid for five years.

~~e. d.~~ *Renewal.* The authorization may be renewed upon application and verification of successful completion of:

(1) Renewal units. Applicants for renewal of the substitute authorization must provide verification of a minimum of two licensure renewal units or semester hours of renewal credits.

(2) Child and dependent adult abuse trainings. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse trainings pursuant to 282—subrule 20.3(4).

22.2(2) and 22.2(3) No change.

~~22.2(4) Preservice substitute authorization.~~ A nonrenewable preservice substitute authorization may be issued to applicants who do not meet the requirements in subrule 22.2(1) but who are enrolled in a state-approved Iowa teacher preparation program.

~~a. Requirements.~~ Eligible applicants for the preservice substitute authorization shall meet the following requirements:

~~(1) Recommendation from the designated recommending official at the Iowa institution where the applicant is enrolled as a teacher preparation candidate. The recommending official will verify the following for each applicant:~~

~~1. Full admission into a teacher preparation program, which must include passing scores on entry assessments.~~

~~2. Junior or senior standing.~~

~~3. Exemplary classroom readiness as identified by the teacher preparation program.~~

~~(2) Background check. Applicants must complete the background check requirements set forth in rule 282—13.1(272).~~

~~(3) Minimum age. Applicants must have attained a minimum age of 21 years.~~

~~b. Validity.~~ The preservice substitute authorization is valid for a maximum of two years. Holders of this authorization may not use substituting experience to supplant required field experiences or student teaching. This authorization may not be renewed or extended.

ITEM 3. Amend rule 282—24.4(272) as follows:

282—24.4(272) Paraeducator area of concentration. An area of concentration is not required but optional. Applicants must currently hold or have previously held an Iowa paraeducator generalist certificate. Applicants may complete one or more areas of concentration but must complete at least 45 clock hours in each area of concentration, with the exception of the substitute authorization.

24.4(1) to 24.4(8) No change.

24.4(9) Paraeducator substitute authorization. An individual who holds a paraeducator certificate and completes the substitute authorization requirements set forth in rule 282—22.2(272) but who does not meet the degree requirement in subparagraph 22.2(1) “a”(2) is authorized to substitute only in the special education classroom in which the individual paraeducator is employed.

ARC 5167C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to medical and remedial services and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 9, “Public Records and Fair Information Practices,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,”

HUMAN SERVICES DEPARTMENT[441](cont'd)

Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Chapter 81, “Nursing Facilities,” and Chapter 153, “Funding for Local Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

These proposed amendments make technical corrections to administrative rules by removing references to outdated programs. In addition, corrections are made to the units of service for intermittent supported community living to bring the language into alignment with current terminology and practice. These amendments also change the number of days, from 30 to 120, a member may be in a medical institution and resume services under the state plan Home- and Community-Based Services (HCBS) Habilitation Program without having to reapply. This change aligns policy implemented in 2018 for all other waiver programs. These amendments clarify what is considered a member’s home for purposes of receiving occupational, physical and speech therapy.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 29, 2020. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **9.12(1)“a”(3)** as follows:

(3) Data processing systems. Client identifying information, eligibility data, and payment data are kept in the following systems. Some of these records are also kept on microfiche.

System	Function
Automated Benefit Calculation System	Determines eligibility for FIP, food assistance, Medicaid
Automated Child Abuse and Neglect System	Inactive child abuse/neglect system
Appeals Logging and Tracking System	Tracks client appeals
BCCT Program	Establishes Medicaid eligibility for breast and cervical cancer clients
Change Reporting System	Tracks client-reported changes and produces forms needed for client-reported changes
Diversion System	Tracks clients using diversion benefits
Electronic Payment Processing and Inventory Control System	Electronically issues food assistance
Eligibility Tracking System	Tracks clients' FIP eligibility and hardship status
Family and Children's Services System	Tracks foster care, adoption, family-centered and family preservation services
Food Stamps Case Reading Application	Food assistance accuracy tool used to record case reading information
Health Insurance Premium Payment System	Health insurance premium payment
Iowa Collection and Reporting System	Tracks child support recovery processes
Iowa Central Employee Registry	Child support new hire reporting system
Iowa Eligibility Verification System	Federal social security number verification and benefits
Iowa Plan Program	Assigns group codes for Iowa Plan clients
Individualized Services Information System	Used to establish facility eligibility, process data to and from ABC and Medicaid fiscal agent, establish waiver services, providers, and eligibility
Issuance History	Displays benefit issuances for FIP and food assistance
KACT System	Authorizes foster care service units
MEPD Premium Payment Program	Accounting system for billing and payment for Medicaid for employed people with disabilities program
Managed Health Care Program	Assigns managed health care providers to clients
Medicaid Management Information Systems	Process clients' Medicaid claims and assign Medicaid coverage to clients

HUMAN SERVICES DEPARTMENT[441](cont'd)

System	Function
Overpayment Recoupment System	Used to recover money from FIP, food assistance, Medicaid, child care assistance, PROMISE JOBS, and hawki clients
Public Information Exchange	Data exchange between states
PJCASE	Iowa workforce development interface with PROMISE JOBS
Purchase of Social Services System	Purchased services (mostly child care and in-home health clients)
Presumptive Eligibility Program	Establishes Medicaid eligibility for presumptive eligibility clients
Quality Control System	Selects sample for quality control review of eligibility determination
RTS Claims Processing System	Processes rehabilitative treatment claims for federal match
State Data Exchange Display	State data exchange information for supplemental security income recipients
Social Security Buy-In System	Medicare premium buy-in
Social Services Reporting System	Services reporting system for direct and purchased services
Statewide Tracking of Assessment Reports	Tracks child abuse reports

ITEM 2. Amend subrule 78.12(5), introductory paragraph, as follows:

78.12(5) Approval of plan. The behavioral health intervention provider shall contact the ~~Iowa Plan provider~~ member's managed care plan for authorization of the services.

ITEM 3. Amend paragraph **78.12(5)“b,”** introductory paragraph, as follows:

b. Subsequent plans. The ~~Iowa Plan contractor~~ member's managed care plan may approve a subsequent services implementation plan according to the conditions in paragraph 78.12(5)“a” if the services are recommended by a licensed practitioner of the healing arts who has:

ITEM 4. Amend subparagraph **78.19(1)“a”(1)** as follows:

(1) Services are provided in the member's home or in a care facility (other than a hospital) by a speech therapist, physical therapist, or occupational therapist employed by or contracted by the agency. A nursing facility, an intermediate care facility for persons with an intellectual disability, or a hospital where services are provided is not considered a member's home.

1. Services provided to a member residing in a residential care facility licensed under Iowa Code section 135C.4 by the department of inspections and appeals are payable when the residential care facility submits a signed statement that the residential care facility does not have these services available. The statement need only be submitted at the start of care unless the situation changes. Payment

2. Under no circumstances will not be made the IME or managed care organizations (MCOs) make payments to a rehabilitation agency for therapy provided to a member residing in a nursing facility or an intermediate care facility for persons with an intellectual disability since these facilities are responsible for providing or paying for services required by members. Physical, occupational, and speech therapy services for residents of the nursing facility, intermediate care facility for persons with an intellectual disability or hospital are the responsibility of the nursing facility, intermediate care facility for persons with an intellectual disability or hospital.

ITEM 5. Amend subparagraph **78.27(10)“e”(3)** as follows:

(3) Individual supported employment is limited to ~~240~~ 60 hourly units per calendar year.

ITEM 6. Amend subparagraph **78.27(11)“c”(5)** as follows:

(5) The member has received care in a medical institution for ~~30~~ 120 consecutive days in any one stay. When a member has been an inpatient in a medical institution for ~~30~~ 120 consecutive days, the department will issue a notice of decision to inform the member of the service termination. If the member

HUMAN SERVICES DEPARTMENT[441](cont'd)

returns home before the effective date of the notice of decision and the member's condition has not substantially changed, the decision shall be rescinded, and eligibility for home- and community-based habilitation services shall continue.

ITEM 7. Amend rule 441—78.34(249A), introductory paragraph, as follows:

441—78.34(249A) HCBS ~~ill and handicapped~~ health and disability waiver services. Payment will be approved for the following services to members eligible for HCBS ~~ill and handicapped~~ health and disability waiver services as established in 441—Chapter 83 and as identified in the member's service plan. Effective March 17, 2022, payment shall only be made for services provided in integrated, community-based settings that support full access of members receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

ITEM 8. Amend subrule 78.34(8), introductory paragraph, as follows:

78.34(8) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature for children or adults aged 18 to 20 whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. Services must be ordered by a physician.

ITEM 9. Amend subrule 78.34(14), introductory paragraph, as follows:

78.34(14) *General service standards.* All ~~ill and handicapped~~ health and disability waiver services must be provided in accordance with the following standards:

ITEM 10. Amend subrule 78.41(9), introductory paragraph, as follows:

78.41(9) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature for children or adults aged 18 to 20 whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. Services must be ordered by a physician.

ITEM 11. Amend subrule 78.43(14), introductory paragraph, as follows:

78.43(14) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature for children or adults aged 18 to 20 whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. Services must be ordered by a physician.

ITEM 12. Amend paragraph **78.52(4)“b”** as follows:

b. In-home family therapy is exclusive of and cannot serve as a substitute for individual therapy, family therapy, or other mental health therapy that may be obtained through ~~the Iowa Plan Medicaid~~ or other funding sources.

ITEM 13. Amend subrule 79.1(2), provider category “HCBS waiver service providers,” paragraph “1,” as follows:

1. Adult day care

For AIDS/HIV, brain injury, elderly, and ~~ill and handicapped~~ health and disability waivers:
Fee schedule

Effective 7/1/16, for AIDS/HIV, brain injury, elderly, and ~~ill and handicapped~~ health and disability waivers:
Provider's rate in effect 6/30/16 plus 1%, converted to a 15-minute, half-day, full-day, or extended-day rate.
If no 6/30/16 rate: Veterans

HUMAN SERVICES DEPARTMENT[441](cont'd)

Administration contract rate or \$1.47 per 15-minute unit, \$23.47 per half day, \$46.72 per full day, or \$70.06 per extended day if no Veterans Administration contract.

For intellectual disability waiver: Fee schedule for the member's acuity tier, determined pursuant to 79.1(30)

Effective 7/1/17, for intellectual disability waiver: The provider's rate in effect 6/30/16 plus 1%, converted to a 15-minute or half-day rate. If no 6/30/16 rate, \$1.96 per 15-minute unit or \$31.27 per half day.

For daily services, the fee schedule rate published on the department's website, pursuant to 79.1(1) "c," for the member's acuity tier, determined pursuant to 79.1(30).

ITEM 14. Amend paragraph **79.1(16)"q"** as follows:

q. Determination of payment amounts for mental health noninpatient (NIP) services. Mental health NIP services are limited as set forth at 441—subparagraph 78.31(4) "d"(7) and are reimbursed on a fee schedule basis. ~~Mental health NIP services are the responsibility of the managed mental health care and substance abuse (Iowa Plan) contractor for persons eligible for managed mental health care.~~

ITEM 15. Amend subparagraph **79.1(24)"b"(6)** as follows:

(6) If a provider fails to submit a cost report for services provided through June 30, 2013, that meets the requirements of this paragraph, the Iowa Medicaid enterprise ~~or the Iowa Plan for Behavioral Health contractor~~ shall reduce the provider's rate to 76 percent of the current rate. The reduced rate shall be paid until the provider's cost report has been received by the Iowa Medicaid enterprise's provider cost audit and rate setting unit pursuant to subparagraph 79.1(24) "b"(4) but for not longer than three months, after which time no further payments will be made.

ITEM 16. Amend subparagraph **81.13(14)"b"(6)** as follows:

(6) May include:

1. Acute inpatient psychiatric treatment. When inpatient psychiatric treatment may be prevented through specialized services provided in the nursing facility, services provided in the nursing facility are preferred.
2. Initial psychiatric evaluation to determine a resident's diagnosis and to develop a plan of care.
3. Follow-up psychiatric services by a psychiatrist to evaluate resident response to psychotropic medications, to modify medication orders and to evaluate the need for ancillary therapy services.
4. Psychological testing required for a specific differential diagnosis that will result in the adoption of appropriate treatment services.
5. Individual or group psychotherapy as part of a plan of care addressing specific symptoms.
6. Any clinically appropriate service which is available ~~through the Iowa plan for behavioral health~~ and for which the member meets eligibility criteria.

ITEM 17. Amend paragraph **153.55(2)"d"** as follows:

d. Service management (county chart of accounts numbers beginning with 22-000) for members eligible for Medicaid targeted case management, ~~unless the Iowa plan contractor decertifies the member for case management services.~~

ARC 5165C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to nursing facilities
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 36, “Facility Assessments,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 249L.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249L.

Purpose and Summary

Nursing facilities are required to pay a quality assurance assessment of \$12.75 unless the nursing facility has 46 or fewer beds, is designated as a continuing care retirement center by the Insurance Division of the Iowa Department of Commerce, or has 21,000 or more Medicaid days, in which case the facility is required to pay a quality assurance assessment of \$2.45 per non-Medicare patient day. Under the proposed amendments, the annual nursing facility determination will match up with the submission of cost reports.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 29, 2020. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **36.6(2)“a”** as follows:

a. Effective July 1, 2019, nursing facilities with 46 or fewer licensed beds are required to pay a quality assurance assessment of \$2.45 per non-Medicare patient day. Effective with assessment for the state fiscal year beginning July 1, ~~2012~~ 2021, the number of licensed beds on file with the department of inspections and appeals as of ~~May~~ June 1 of each year shall be used to determine the assessment level for the following state fiscal year.

ITEM 2. Amend paragraph **36.6(2)“b”** as follows:

b. Effective July 1, 2019, nursing facilities designated as continuing care retirement centers (CCRCs) by the insurance division of the Iowa department of commerce are required to pay a quality assurance assessment of \$2.45 per non-Medicare patient day. Effective with assessment for the state fiscal year beginning July 1, ~~2012~~ 2021, continuing care retirement center designations as of ~~May~~ June 1 of each year shall be used to determine the assessment level for the following state fiscal year.

ITEM 3. Amend paragraph **36.6(2)“c”** as follows:

c. Effective July 1, 2019, nursing facilities with annual Iowa Medicaid patient days of 21,000 or more are required to pay a quality assurance assessment of \$2.45 per non-Medicare patient day. Effective with assessment for the state fiscal year beginning July 1, ~~2012~~ 2021, the annual number of Iowa Medicaid patient days reported in the most current cost report submitted to the Iowa Medicaid enterprise as of ~~May~~ June 1 of each year shall be used to determine the assessment level for the following state fiscal year.

ARC 5166C

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action****Proposing rule making related to day habilitation
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” and Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Purpose and Summary

The purpose of the proposed amendments is to implement guidance provided from the Centers for Medicare and Medicaid Services (CMS), which clarifies that day habilitation services may provide a pathway to employment for the Home- and Community-Based Services (HCBS) day habilitation services provided through the HCBS Intellectual Disabilities (ID) waiver and state plan HCBS Habilitation Program for persons with chronic mental illness. These amendments clarify the activities provided through day habilitation to assist members in participating in the community, developing social roles and responsibilities, and increasing independence and the potential for employment. The Department convened a work group to address the requirements for providers and scope of services.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 29, 2020. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 77.25(7) as follows:
77.25(7) Day habilitation.

HUMAN SERVICES DEPARTMENT[441](cont'd)

a. The following providers may provide day habilitation:

~~a.~~ (1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities to provide services that qualify as day habilitation under 441—subrule 78.27(8).

~~b.~~ (2) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities to provide other services and began providing services that qualify as day habilitation under 441—subrule 78.27(8) since the agency's last accreditation survey. The agency may provide day habilitation services until the current accreditation expires. When the current accreditation expires, the agency must qualify under ~~paragraph "a," "d," "g," or "h."~~ subparagraph 77.25(7) "a"(1), 77.25(7) "a"(4), or 77.25(7) "a"(7).

~~c.~~ (3) An agency that is not accredited by the Commission on Accreditation of Rehabilitation Facilities but has applied to the Commission within the last 12 months for accreditation to provide services that qualify as day habilitation under 441—subrule 78.27(8). An agency that has not received accreditation within 12 months after application to the Commission is no longer a qualified provider.

~~d.~~ (4) An agency that is accredited by the Council on Quality and Leadership in Supports for People with Disabilities.

~~e.~~ (5) An agency that has applied to the Council on Quality and Leadership in Supports for People with Disabilities for accreditation within the last 12 months. An agency that has not received accreditation within 12 months after application to the Council is no longer a qualified provider.

~~f.~~ (6) An agency that is accredited under 441—Chapter 24 to provide day treatment or supported community living services.

~~g.~~ An agency that is certified by the department to provide day habilitation services under the home and community-based services intellectual disability waiver pursuant to rule 441—77.37(249A).

~~h.~~ (7) An agency that is accredited by the International Center for Clubhouse Development.

~~i.~~ (8) An agency that is accredited by the Joint Commission on Accreditation of Healthcare Organizations.

b. Direct support staff providing day habilitation services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) A person providing direct support without line-of-sight supervision shall be at least 18 years of age and possess a high school diploma or equivalent degree. A person providing direct support with line-of-sight supervision shall be 16 years of age or older.

(2) A person providing direct support shall not be an immediate family member of the member.

(3) A person providing direct support shall, within six months of hire or within six months of [the effective date of this rule], complete at least 9.5 hours of training in supporting members in the activities listed in 701—paragraph 78.27(8) "a," as offered through DirectCourse or Relias or other nationally recognized training curriculum.

(4) A person providing direct support shall annually complete 4 hours of continuing education in supporting members in the activities listed in 701—paragraph 78.27(8) "a," as offered through DirectCourse or Relias or other nationally recognized training curriculum.

ITEM 2. Rescind subrule 77.37(27) and adopt the following **new** subrule in lieu thereof:

77.37(27) Day habilitation providers. Day habilitation services may be provided by agencies meeting the qualifications in subrule 77.25(7).

ITEM 3. Amend subrule 78.27(8) as follows:

78.27(8) Day habilitation. "Day habilitation" means services that provide opportunities and support for community inclusion and build interest in and develop skills for active participation in recreation, volunteerism and integrated community employment. Day habilitation provides assistance with acquisition, retention, or improvement of self-help, socialization, and adaptive skills community participation, and daily living skills.

a. Scope. Day habilitation activities and environments are designed to foster the acquisition of skills, ~~appropriate~~ positive social behavior, greater independence, and personal choice. Services focus on enabling supporting the member to participate in the community, develop social roles and relationships, and increase independence and the potential for employment. Services are designed to assist the member

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~to attain or maintain the member's maximum functional level and shall be coordinated with any physical, occupational, or speech therapies in the comprehensive service plan. Services may serve to reinforce skills or lessons taught in other settings. Services must enhance or support the member's individual goals as identified in the member's comprehensive service plan. Services may also provide wraparound support secondary to community employment. Day habilitation activities may include:~~

- ~~(1) Intellectual functioning; Identifying the member's interests, preferences, skills, strengths and contributions,~~
- ~~(2) Physical and emotional health and development; Identifying the conditions and supports necessary for full community inclusion and the potential for competitive integrated employment,~~
- ~~(3) Language and communication development; Planning and coordination of the member's individualized daily and weekly day habilitation schedule,~~
- ~~(4) Cognitive functioning; Developing skills and competencies necessary to pursue competitive integrated employment,~~
- ~~(5) Socialization and community integration; Participating in community activities related to hobbies, leisure, personal health, and wellness,~~
- ~~(6) Functional skill development; Participating in community activities related to cultural, civic, and religious interests,~~
- ~~(7) Behavior management; Participating in adult learning opportunities,~~
- ~~(8) Responsibility and self-direction; Participating in volunteer opportunities,~~
- ~~(9) Daily living activities; Training and education in self-advocacy and self-determination to support the member's ability to make informed choices about where to live, work, and recreate,~~
- ~~(10) Self-advocacy skills; or Assistance with behavior management and self-regulation,~~
- ~~(11) Mobility; Use of transportation and other community resources,~~
- ~~(12) Assistance with developing and maintaining natural relationships in the community,~~
- ~~(13) Assistance with identifying and using natural supports,~~
- ~~(14) Assistance with accessing financial literacy and benefits education,~~
- ~~(15) Other activities deemed necessary to assist the member with full participation in the community, developing social roles and relationships, and increasing independence and the potential for employment.~~

b. Family training option. Day habilitation services may include training families in treatment and support methodologies or in the care and use of equipment. Family training may be provided in the member's home. The unit of service is 15 minutes. The units of services payable are limited to a maximum of 40 units per month.

c. Expected outcome of service. The expected outcome of day habilitation services is active participation in the community in which the member lives, works, and recreates. Members are expected to have opportunities to interact with individuals without disabilities in the community, other than those providing direct services, to the same extent as individuals without disabilities.

b. d. Setting. Day habilitation shall take place in community-based, nonresidential settings separate from the member's residence. Family training may be provided in the member's home.

e. e. Duration. Day habilitation services shall be furnished ~~for four or more hours per day on a regularly scheduled basis for one or more days per week or as specified in the member's comprehensive service plan.~~ Meals provided as part of day habilitation shall not constitute a full nutritional regimen (three meals per day).

f. Unit of service. A unit of day habilitation is 15 minutes (up to 16 units per day) or a full day (4.25 to 8 hours).

g. Concurrent services. A member's comprehensive service plan may include two or more types of nonresidential habilitation services (e.g., day habilitation, individual supported employment, long-term job coaching, small-group supported employment, and prevocational services). However, more than one service may not be billed during the same period of time (e.g., the same hour).

h. Transportation. When transportation is provided to the day habilitation service location from the member's home and from the day habilitation service location to the member's home, the day habilitation provider may bill for the time spent transporting the member.

d. i. Exclusions. Day habilitation payment shall not be made for the following:

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~(1) Vocational or prevocational services.~~ Services that are available to the individual under a program funded under Section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.). Documentation that funding is not available to the individual for the service under these programs shall be maintained in the service plan of each member receiving day habilitation services.

~~(2) Services that duplicate or replace education or related services defined in Public Law 94-142, the Education of the Handicapped Act.~~

~~(3) (2) Compensation to members for participating in day habilitation services.~~

~~(3) Support for members volunteering in for-profit organizations and businesses.~~

~~(4) Support for members volunteering to benefit the day habilitation service provider.~~

ITEM 4. Rescind subrule 78.41(14) and adopt the following **new** subrule in lieu thereof:

78.41(14) Day habilitation. Day habilitation services will be provided pursuant to subrule 78.27(8).

ARC 5164C

NURSING BOARD[655]

Notice of Intended Action

Proposing rule making related to administrative and regulatory authority and providing an opportunity for public comment

The Board of Nursing hereby proposes to amend Chapter 1, “Administrative and Regulatory Authority,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 17A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.11B.

Purpose and Summary

2019 Iowa Acts, House File 766, section 59, created new Iowa Code section 135.11B, which provides the Director of the Iowa Department of Public Health with the authority to hire and supervise the executive directors of the Boards of Medicine, Nursing, and Pharmacy and the Dental Board. Previously, the Board of Nursing hired and supervised its own Executive Director. The Board will now advise and consult with the Director in the hiring and supervision of the Executive Director. This rule making amends rule 655—1.3(17A,147,152) to conform to the Board’s new advisory and consulting role in the hiring and supervising of its Executive Director.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

NURSING BOARD[655](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 29, 2020. Comments should be directed to:

Kathy Weinberg
Iowa Board of Nursing
400 S.W. Eighth Street, Suite B
Des Moines, Iowa 50309
Email: kathy.weinberg@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 29, 2020
9 to 10 a.m.

Board Office, Suite B
400 S.W. Eighth Street
Des Moines, Iowa 50309

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend paragraph 1.3(2)“j” as follows:

j. ~~Appoint~~ Retain a full-time executive director who, ~~under the direction of the board,~~ is responsible for the administration of policies and programs of the board and for the operation of the board office. ~~Appointment or termination of appointment of the executive director shall require a majority vote of the entire board.~~ Pursuant to Iowa Code section 135.11B, the board shall advise the director of the department of public health in evaluating potential candidates for the position of executive director, consult with the director in the hiring of the executive director, and review and advise the director on the performance of the executive director in the discharge of the executive director's duties.

ARC 5172C**NURSING BOARD[655]****Notice of Intended Action****Proposing rule making related to nursing practice for registered nurses/licensed practical nurses and providing an opportunity for public comment**

The Board of Nursing hereby proposes to rescind Chapter 6, “Nursing Practice for Registered Nurses/Licensed Practical Nurses,” Iowa Administrative Code, and to adopt a new Chapter 6 with the same title.

NURSING BOARD[655](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 152.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 152.

Purpose and Summary

Chapter 6 governs the minimum standards of practice for RNs and LPNs. The chapter had not been reviewed in its totality for many years. Accordingly, the chapter was reviewed as a whole and is proposed to be rescinded and adopted new in order to make changes to both phrasing and organization in an effort to bring the chapter in line with modern practices and terminology.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 29, 2020. Comments should be directed to:

Kathy Weinberg
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400 S.W. Eighth Street, Suite B
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September 29, 2020
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400 S.W. Eighth Street
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

NURSING BOARD[655](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Rescind 655—Chapter 6 and adopt the following new chapter in lieu thereof:

CHAPTER 6

NURSING PRACTICE FOR REGISTERED NURSES/LICENSED PRACTICAL NURSES

655—6.1(152) Definitions.

“Advanced registered nurse practitioner” or *“ARNP”* means a person who is currently licensed as a registered nurse under Iowa Code chapter 152 or 152E who is licensed by the board as an advanced registered nurse practitioner.

“Board” as used in this chapter means the Iowa board of nursing.

“Competence” means having sufficient knowledge, judgment, and skill to perform a specific function.

“Expanded intravenous therapy certification course” means the Iowa board of nursing course required for licensed practical nurses to perform procedures related to the expanded scope of practice of intravenous therapy.

“Initial assessment” means the systematic collection of data to determine the patient's health status and plan of care, and to identify any actual or potential health problems, which is performed upon the patient's first arrival or admission to a unit or facility or upon any significant changes in the patient's status.

“Midline catheter” means a long peripheral catheter in which the distal end resides in the mid to upper arm, but the tip terminates no further than the axilla.

“Nursing diagnosis” means a judgment made by a registered nurse, following a nursing assessment of an individual or group about actual or potential responses to health problems, which forms the basis for determining effective nursing interventions.

“Nursing facility” means an institution as defined in Iowa Code chapter 135C. This term does not include acute care settings.

“Nursing process” means ongoing assessment, nursing diagnosis, planning, intervention, and evaluation.

“Peripheral intravenous catheter” means a catheter three inches or less in length.

“Peripherally inserted central catheter” means a soft flexible central venous catheter inserted into an extremity and advanced until the tip is positioned in the vena cava.

“Proximate area” means sufficiently close in time and space, within the same building, to provide timely in-person assistance.

“Supervision” means directly or indirectly observing a function or activity and taking reasonable steps to ensure the nursing care being provided is adequate and delivered appropriately.

“Unlicensed assistive personnel” is an individual who is trained to function in an assistive role to the registered nurse and licensed practical nurse in the provision of nursing care activities as delegated by the registered nurse or licensed practical nurse.

655—6.2(152) Standards of nursing practice for registered nurses.

6.2(1) A registered nurse shall recognize and understand the legal boundaries for practicing nursing within the scope of nursing practice. The scope of practice of the registered nurse is determined by the nurse's education, experience, and competency and the rules governing nursing. The scope of practice of the registered nurse shall not include those practices requiring the knowledge and education of an advanced registered nurse practitioner.

6.2(2) The registered nurse shall demonstrate professionalism and accountability by:

- a. Demonstrating honesty and integrity in nursing practice.

NURSING BOARD[655](cont'd)

- b.* Basing nursing decisions on nursing knowledge, judgment, skills, the needs of patients, and evidence-based practices.
- c.* Maintaining competence through ongoing learning, application of knowledge, and applying evidence-based practices.
- d.* Reporting instances of unsafe nursing practices by self or others to the appropriate supervisor.
- e.* Being accountable for judgments, individual nursing actions, competence, decisions, and behavior in the practice of nursing.
- f.* Assuming responsibility for the nurse's own decisions and actions.
- g.* Wearing identification which clearly identifies the nurse as a registered nurse when providing direct patient care unless wearing identification creates a safety or health risk for either the nurse or the patient.

6.2(3) The registered nurse shall utilize the nursing process by:

- a.* Conducting a thorough nursing assessment based on the patient's needs and the practice setting.
- b.* Applying nursing knowledge based on the biological, psychological, and sociocultural aspects of the patient's condition.
- c.* Detecting inaccurate or missing patient information.
- d.* Receiving a physician's, ARNP's, or other health care provider's orders and seeking clarification of orders when needed.
- e.* Formulating independent nursing decisions and nursing diagnoses by using critical thinking, objective findings, and clinical judgment.
- f.* Planning nursing care and nursing interventions by establishing measurable and achievable outcomes, consistent with the patient's overall health care plan.
- g.* Obtaining education and ensuring competence when encountering new equipment, technology, medication, procedures or any other unfamiliar care situations.
- h.* Implementing treatment and therapy as identified by the patient's overall health care plan.
- i.* Monitoring patients and attending to patients' health care needs.
- j.* Identifying changes in the patient's health status, as indicated by pertinent signs and symptoms, and comprehending the clinical implications of those changes.
- k.* Evaluating continuously the patient's response to nursing care and other therapies, including:
 - (1) Patient's response to interventions.
 - (2) Need for alternative interventions.
 - (3) Need to communicate and consult with other health team members.
 - (4) Need to revise the plan of care.
- l.* Documenting nursing care accurately, thoroughly, and in a timely manner.
- m.* Communicating and consulting with other health team members regarding the following:
 - (1) Patient concerns and special needs.
 - (2) Patient status and progress.
 - (3) Patient response or lack of response to interventions.
 - (4) Significant changes in patient condition.
 - (5) Interventions which are not implemented, based on the registered nurse's professional judgment, and providing:
 - 1. A timely notification to the physician, ARNP, or other health care provider who prescribed the intervention that the order was not executed and reason(s) for not executing the order;
 - 2. Documentation in the medical record that the physician, ARNP, or other health care provider was notified and reason(s) for not implementing the order; and
 - 3. If appropriate, a timely notification to other persons who, based on the patient's circumstances, should be notified of any orders which were not implemented.
- n.* Revising plan of care as needed.
- o.* Providing a safe environment for the patient.
- p.* Providing comprehensive health care education to the patient and others, according to nursing standards and evidence-based practices.

6.2(4) The registered nurse shall act as an advocate for the patient(s) by:

NURSING BOARD[655](cont'd)

- a.* Respecting the patient's rights, confidentiality, concerns, decisions, and dignity.
- b.* Identifying patient needs.
- c.* Attending to patient concerns or requests.
- d.* Promoting a safe environment for the patient, others, and self.
- e.* Maintaining appropriate professional boundaries.

6.2(5) The registered nurse shall apply the delegation process when delegating to another registered nurse or licensed practical nurse by:

- a.* Delegating only those nursing tasks that fall within the delegatee's scope of practice, education, experience, and competence.

The initial assessment and ongoing application of the nursing process shall only be provided by the registered nurse.

- b.* Matching the patient's needs and circumstances with the delegatee's qualifications, resources, and appropriate supervision.
- c.* Communicating directions and expectations for completion of the delegated activity and receiving confirmation of understanding of the communication from the delegatee.
- d.* Supervising the delegatee by monitoring performance, progress and outcomes and ensuring appropriate documentation is complete.
- e.* Evaluating patient outcomes as a result of the delegation process.
- f.* Intervening when problems are identified, revising plan of care when needed, and reassessing the appropriateness of the delegation.
- g.* Retaining accountability for properly implementing the delegation process.
- h.* Promoting a safe and therapeutic environment by:
 - (1) Providing appropriate monitoring and surveillance of the care environment.
 - (2) Identifying unsafe care situations.
 - (3) Correcting problems or referring problems to appropriate management level when needed.

6.2(6) The registered nurse shall not delegate the following intravenous therapy procedures to a licensed practical nurse:

- a.* Initiation and discontinuation of a midline catheter or a peripherally inserted central catheter (PICC).
- b.* Administration of medication by bolus or IV push except maintenance doses of analgesics via a patient-controlled analgesia pump set at a lock-out interval.
- c.* Administration of blood and blood products, vasodilators, vasopressors, oxytocics, chemotherapy, colloid therapy, total parenteral nutrition, anticoagulants, antiarrhythmics, thrombolytics, and solutions with a total osmolality of 600 or greater.
- d.* Provision of intravenous therapy to a patient under the age of 12 or any patient weighing less than 80 pounds, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).
- e.* Provision of intravenous therapy in any other setting except a licensed hospital, a nursing facility and a certified end-stage renal dialysis unit, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).

6.2(7) The registered nurse shall apply the delegation process when delegating to an unlicensed assistive personnel (UAP) by:

- a.* Ensuring the UAP has the appropriate education and training and has demonstrated competency to perform the delegated task.
- b.* Ensuring the task does not require assessment, interpretation, and independent nursing judgment or nursing decision during the performance or completion of the task.
- c.* Ensuring the task does not exceed the scope of practice of a licensed practical nurse.
- d.* Ensuring the task is consistent with the UAP's scope of employment and can be safely performed according to clear and specific directions.
- e.* Verifying the task poses minimal risk to the patient and the patient's health condition is stable at the time of delegation.

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f. Communicating directions and expectations for completion of the delegated activity and receiving confirmation of understanding of the communication from the UAP.

g. Supervising the UAP and evaluating the patient outcomes of the delegated task.

6.2(8) Subrule 6.2(7) does not apply to delegations to emergency medical care personnel who are employed by or assigned to a hospital or other entity in which health care is ordinarily provided, so long as:

- a.* The nurse has observed the patient;
- b.* The delegated task is a nonlifefaving procedure;
- c.* The delegatee is certified to perform the task; and
- d.* The task is within the delegatee's job description.

6.2(9) Additional acts which may be performed by, and specific nursing practices for, registered nurses:

a. A registered nurse shall be permitted to practice as a diagnostic radiographer while under the supervision of a licensed practitioner provided that appropriate training standards for use of radiation-emitting equipment are met as outlined in 641—Chapter 42.

b. A registered nurse may staff an authorized ambulance, rescue, or first response service provided the registered nurse can document equivalency through education and additional skills training essential in the delivery of out-of-hospital emergency care. The equivalency shall be accepted when documentation has been reviewed and approved at the local level by the medical director of the ambulance, rescue, or first response service and the Iowa department of public health bureau of emergency and trauma services in accordance with the form adopted by the Iowa department of public health. An exception to this subrule is the registered nurse who accompanies and is responsible for a transfer patient.

c. A registered nurse, while circulating in the operating room, shall provide supervision only to persons in the same operating room.

This rule is intended to implement Iowa Code section 147A.12 and chapters 136C and 152.

655—6.3(152) Standards of nursing practice for licensed practical nurses.

6.3(1) The licensed practical nurse shall recognize and understand the legal boundaries for practicing nursing within the scope of nursing practice. The scope of practice of the licensed practical nurse is determined by the nurse's education, experience, and competency and the rules governing nursing.

6.3(2) The licensed practical nurse shall demonstrate professionalism and accountability by:

- a.* Demonstrating honesty and integrity in nursing practice.
- b.* Basing nursing decisions on nursing knowledge and skills, the needs of patients, and licensed practical nursing standards.
- c.* Maintaining competence through ongoing learning and application of knowledge in practical nursing practice.
- d.* Reporting instances of unsafe nursing practices by self or others to the appropriate supervisor.
- e.* Being accountable for judgments, individual nursing actions, competence, decisions, and behavior in the course of practical nursing practice.
- f.* Assuming responsibility for the nurse's own decisions and actions.
- g.* Wearing identification which clearly identifies the nurse as a licensed practical nurse when providing direct patient care unless wearing identification creates a safety or health risk for either the nurse or the patient.

6.3(3) The licensed practical nurse, practicing under the supervision of a registered nurse, advanced registered nurse practitioner (ARNP), or licensed physician, consistent with the accepted and prevailing practices and practice setting, may participate in the nursing process by:

a. Participating in nursing care, health maintenance, patient teaching, evaluation and collaborative planning and rehabilitation to the extent of the licensed practical nurse's education, experience, and competency.

b. Conducting a thorough, ongoing nursing assessment based on the patient's needs after the initial assessment is completed by the registered nurse.

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- c.* Assisting the supervising registered nurse, ARNP, or physician in planning for patient care by identifying patient needs and goals.
- d.* Demonstrating attentiveness and providing patient surveillance and monitoring.
- e.* Seeking clarification of orders when needed.
- f.* Obtaining education and ensuring competence when encountering new equipment, technology, medication, procedures or any other unfamiliar care situations.
- g.* Implementing treatment and therapy as identified by the patient's overall health care plan.
- h.* Documenting nursing care accurately, thoroughly, and in a timely manner.
- i.* Evaluating continuously the patient's response to nursing care and other therapies, including:
 - (1) Patient's response to interventions.
 - (2) Need for alternative interventions.
 - (3) Need to communicate and consult with other health team members.
 - (4) Need to revise the plan of care.
- j.* Collaborating and communicating relevant and timely patient information with patients and other health team members to ensure quality and continuity of care, including:
 - (1) Patient concerns and special needs.
 - (2) Patient status and progress.
 - (3) Patient response or lack of response to interventions.
 - (4) Significant changes in patient condition.
 - (5) Interventions which are not implemented, based on the licensed practical nurse's professional judgment, and providing:
 - 1. A timely notification to the physician, ARNP, registered nurse, or other health care provider who prescribed the intervention that the order was not executed and reason(s) for not executing the order;
 - 2. Documentation in the medical record that the physician, ARNP, registered nurse, or other health care provider was notified and reason(s) for not implementing the order; and
 - 3. If appropriate, a timely notification to other persons who, based on the patient's circumstances, should be notified of any orders which were not implemented.
- k.* Providing a safe environment for the patient.
- l.* Participating in the health care education of the patient and others, according to nursing standards and evidence-based practices.

6.3(4) A licensed practical nurse shall not perform any activity requiring the knowledge and education of a registered nurse, including but not limited to:

- a.* Initiating a procedure or therapy that requires the knowledge and education level of a registered nurse.
- b.* Performing an assessment of a procedure or therapy that requires the knowledge and education level of a registered nurse.
- c.* Initiating or administering blood components.
- d.* Initiating or administering medications requiring the knowledge and education level of a registered nurse.

6.3(5) A licensed practical nurse, under the supervision of a registered nurse, may engage in the limited scope of practice of intravenous therapy. The licensed practical nurse shall be educated and have documentation of competency in the limited scope of practice of intravenous therapy. Limited scope of practice of intravenous therapy may include:

- a.* Addition of intravenous solutions without adding medications to established peripheral intravenous sites.
- b.* Monitoring and regulating the rate of nonmedicated intravenous solutions to established peripheral intravenous sites.
- c.* Administration of maintenance doses of analgesics via the patient-controlled analgesia pump set at a lock-out interval to established peripheral intravenous sites.
- d.* Discontinuation of peripheral intravenous therapy.

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e. Administration of a prefilled heparin or saline syringe flush, prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse, to an established peripheral lock, in a licensed hospital, a nursing facility or a certified end-stage renal dialysis unit.

6.3(6) In a certified end-stage renal dialysis unit, nursing tasks which may be delegated by a registered nurse to a licensed practical nurse, for the sole purpose of hemodialysis treatment, include:

a. Initiation and discontinuation of the hemodialysis treatment utilizing any of the following established vascular accesses: central line catheter, arteriovenous fistula, and graft.

b. Administration, during hemodialysis treatment, of local anesthetic prior to cannulation of the vascular access site.

c. Administration of prescribed dosages of heparin solution or saline solution utilized in the initiation and discontinuation of hemodialysis.

d. Administration, during hemodialysis treatment via the extracorporeal circuit, of the routine intravenous medications erythropoietin, Vitamin D Analog, intravenous antibiotic solutions prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse, and iron, excluding any iron preparation that requires a test dose. The registered nurse shall administer the first dose of erythropoietin, Vitamin D Analog, antibiotics, and iron.

6.3(7) The licensed practical nurse shall act as an advocate for the patient by:

a. Always practicing under the supervision of a registered nurse, ARNP, or physician.

b. Respecting the patient's rights, confidentiality, concerns, decisions, and dignity.

c. Identifying patient needs.

d. Attending to patient concerns or requests.

e. Promoting a safe environment for the patient, others, and self.

f. Maintaining appropriate professional boundaries.

6.3(8) The licensed practical nurse shall apply the delegation process when delegating to another licensed practical nurse by:

a. Delegating only those nursing tasks that fall within the scope of practice of a licensed practical nurse.

b. Delegating only those nursing tasks that fall within the delegatee's scope of practice, education, experience, and competence.

c. Matching the patient's needs and circumstances with the delegatee's qualifications, resources, and appropriate supervision.

d. Communicating directions and expectations for completion of the delegated activity and receiving confirmation of the communication from the delegatee.

e. Supervising the delegatee by monitoring performance, progress and outcomes and ensuring appropriate documentation is complete.

f. Evaluating patient outcomes as a result of the delegation process.

g. Intervening when problems are identified, revising plan of care when needed, and reassessing the appropriateness of the delegation.

h. Retaining accountability for properly implementing the delegation process.

i. Promoting a safe and therapeutic environment by:

(1) Providing appropriate monitoring and surveillance of the care environment.

(2) Identifying unsafe care situations.

(3) Correcting problems or referring problems to appropriate management level when needed.

6.3(9) The licensed practical nurse shall apply the delegation process when delegating to an unlicensed assistive personnel (UAP) by:

a. Delegating only those nursing tasks that fall within the scope of practice of a licensed practical nurse.

b. Ensuring the UAP has the appropriate education and training and has demonstrated competency to perform the delegated task.

c. Ensuring the task does not require assessment, interpretation, and independent nursing judgment or nursing decision during the performance or completion of the task.

NURSING BOARD[655](cont'd)

d. Ensuring the task is consistent with the UAP's scope of employment and can be safely performed according to clear and specific directions.

e. Verifying that the task poses minimal risk to the patient and that the patient's health condition is stable at the time of delegation.

f. Communicating directions and expectations for completion of the delegated activity and receiving confirmation of the communication from the UAP.

g. Supervising the UAP and evaluating the patient outcomes of the delegated task.

6.3(10) The licensed practical nurse may provide nursing care in an acute care setting so long as a registered nurse, ARNP, or physician is present in the proximate area. Acute care settings requiring a registered nurse, ARNP, or physician to be in the proximate area include but are not limited to:

a. Units where care of the unstable, critically ill, or critically injured individual is provided.

b. General medical-surgical units.

c. Emergency departments.

d. Operating rooms. (A licensed practical nurse may assist with circulating duties when supervised by a registered nurse circulating in the same room.)

e. Postanesthesia recovery units.

f. Hemodialysis units.

g. Labor and delivery/birthing units.

h. Mental health units.

i. Diagnostic testing centers.

j. Surgery centers.

k. Outpatient procedure centers.

6.3(11) The licensed practical nurse may provide nursing care in a non-acute care setting. However, a registered nurse, ARNP, or physician must be present in the proximate area if the licensed practical nurse provides nursing care in the following non-acute care settings:

a. Community health settings, except:

(1) The licensed practical nurse shall be permitted to provide supportive and restorative care in the home setting under the supervision of a registered nurse or a physician. When the licensed practical nurse provides care under the supervision of the registered nurse, the initial assessment and ongoing application of the nursing process shall be provided by the registered nurse.

(2) The licensed practical nurse shall be permitted to provide supportive and restorative care in a camp setting under the supervision of a registered nurse or a physician. When the licensed practical nurse provides care under the supervision of the registered nurse, the initial assessment and ongoing application of the nursing process are performed by the registered nurse. The licensed practical nurse is responsible for requesting registered nurse consultation as needed.

b. Schools, except:

(1) The licensed practical nurse shall be permitted to provide supportive and restorative care to a specific student in the school setting in accordance with the student's health plan when under the supervision of, and as delegated by, the registered nurse employed by the school district.

(2) The licensed practical nurse shall be permitted to provide supportive and restorative care in a Head Start program under the supervision of a registered nurse or a physician if the licensed practical nurse was in this position prior to July 1, 1985.

c. Occupational health settings.

d. Correctional facilities, except:

(1) The licensed practical nurse shall be permitted to provide supportive and restorative care in a county jail facility or municipal holding facility operating pursuant to Iowa Code chapter 356. The supportive and restorative care provided by the licensed practical nurse in such facilities shall be performed under the supervision of a registered nurse. The registered nurse shall perform the initial assessment and ongoing application of the nursing process. The registered nurse shall be available 24 hours per day by teleconferencing equipment.

(2) Reserved.

e. Community mental health settings.

NURSING BOARD[655](cont'd)

f. Health care clinics, except:

(1) The licensed practical nurse shall be permitted to conduct height, weight and hemoglobin screening and record responses to health questions asked in a standardized questionnaire under the supervision of a registered nurse in a Women, Infants and Children (WIC) clinic. A registered nurse employed by or under contract to the WIC agency will assess the competency of the licensed practical nurse to perform these functions and will be available for consultation. The licensed practical nurse is responsible for performing under the scope of practice for licensed practical nurses and requesting registered nurse consultation as needed. This exception to the proximate area requirement is limited to WIC clinics and to the services permitted in this subrule.

(2) Reserved.

6.3(12) A licensed practical nurse may be permitted to supervise other licensed practical nurses or unlicensed assistive personnel, pursuant to Iowa Code section 152.1(5) “b,” in the following practice settings, in accordance with the following:

a. A licensed practical nurse working under the supervision of a registered nurse may be permitted to supervise in an intermediate care facility for persons with an intellectual disability or in a residential health care setting.

b. A licensed practical nurse working under the supervision of a registered nurse who is in the proximate area may direct the activities of other licensed practical nurses and unlicensed assistive personnel in an acute care setting in giving care to individuals assigned to the licensed practical nurse.

c. A licensed practical nurse working under the supervision of a registered nurse may supervise in a nursing facility if the licensed practical nurse completes the National Healthcare Institute’s Supervisory Course for Iowa’s Licensed Practical Nurses within 90 days of employment in a supervisory role. Documentation of the completion of the course shall be maintained by the licensed practical nurse. A licensed practical nurse shall be entitled to supervise without completing the course if the licensed practical nurse was performing in a supervisory role on or before October 6, 1982. A licensed practical nurse who is currently enrolled as a full-time student in a registered nurse program and is scheduled to graduate within one year is not required to complete the course. If the licensed practical nurse does not obtain a registered nurse license within one year, the licensed practical nurse must take the course to continue supervisory duties.

6.3(13) A licensed practical nurse shall be permitted to practice as a diagnostic radiographer while under the supervision of a licensed practitioner provided that appropriate training standards for use of radiation-emitting equipment are met as outlined in 641—Chapter 42.

6.3(14) A licensed practical nurse shall be permitted to perform, in addition to the functions set forth in subrule 6.3(5), procedures related to the expanded scope of practice of intravenous therapy upon completion of the board-approved expanded intravenous therapy certification course and in accordance with the following:

a. To be eligible to enroll in the course, the licensed practical nurse shall:

(1) Hold a current unrestricted Iowa license or an unrestricted license in another state recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

(2) Have documentation of 1,040 hours of practice as a licensed practical nurse.

(3) Be practicing in a licensed hospital, a nursing facility or a certified end-stage renal dialysis unit whose policies allow the licensed practical nurse to perform procedures related to the expanded scope of practice of intravenous therapy.

b. The course must be offered by an approved Iowa board of nursing provider of nursing continuing education. Documentation of course completion shall be maintained by the licensed practical nurse and employer.

c. The board-approved course shall incorporate the responsibilities of the licensed practical nurse when providing intravenous therapy via a peripheral intravenous catheter, a midline catheter and a peripherally inserted central catheter (PICC) to children, adults and elderly adults.

d. Upon completion of the course, when providing intravenous therapy, the licensed practical nurse shall be under the supervision of a registered nurse. Procedures which may be performed if delegated by the registered nurse are as follows:

NURSING BOARD[655](cont'd)

- (1) Initiation of a peripheral intravenous catheter for continuous or intermittent therapy using a catheter not to exceed three inches in length.
 - (2) Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of premixed electrolyte solutions or premixed vitamin solutions. The first dose shall be administered by the registered nurse. The solutions must be prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse.
 - (3) Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of solutions containing potassium chloride that do not exceed 40 meq per liter and that do not exceed a dose of 10 meq per hour. The first dose shall be administered by the registered nurse. The solutions must be prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse.
 - (4) Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of intravenous antibiotic solutions prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse. The first dose shall be administered by the registered nurse.
 - (5) Maintenance of the patency of a peripheral intravenous catheter, midline catheter, and a PICC line with a prefilled heparin or saline syringe flush, prepackaged by the manufacturer or premixed by a registered pharmacist or registered nurse.
 - (6) Changing the dressing of a midline catheter and a PICC line per sterile technique.
- e. Intravenous therapy procedures which shall not be delegated by the registered nurse to the licensed practical nurse are as follows:
- (1) Initiation and discontinuation of a midline catheter or a PICC.
 - (2) Administration of medication by bolus or IV push except maintenance doses of analgesics via a patient-controlled analgesia pump set at a lock-out interval.
 - (3) Administration of blood and blood products, vasodilators, vasopressors, oxytoxics, chemotherapy, colloid therapy, total parenteral nutrition, anticoagulants, antiarrhythmics, thrombolytics, and solutions with a total osmolarity of 600 or greater.
 - (4) Provision of intravenous therapy to a patient under the age of 12 or any patient weighing less than 80 pounds, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).
 - (5) Provision of intravenous therapy in any other setting except a licensed hospital, a nursing facility and a certified end-stage renal dialysis unit, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(5).

These rules are intended to implement Iowa Code chapter 152.

ARC 5171C**PHARMACY BOARD[657]****Notice of Intended Action****Proposing rule making related to accreditation
and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 17, "Wholesale Distributor Licenses," and Chapter 43, "Third-Party Logistics Provider Licenses," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 155A.17 and 155A.17A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 155A.17 and 155A.17A.

PHARMACY BOARD[657](cont'd)

Purpose and Summary

These proposed amendments would allow wholesale distributors and third-party logistics providers (3PL) that are seeking initial licensure in Iowa to attain quality and security (QAS) accreditation through the National Coalition for Drug Quality and Security (NCDQS) in lieu of accreditation through the National Association of Boards of Pharmacy (NABP), but requires accreditation through NABP by the licensee's second renewal.

Following passage of the federal Drug Quality and Security Act, including the Drug Supply Chain Security Act, in November 2013, the Board implemented a requirement that entities involved in the drug supply chain must be accredited as a requirement for licensure in Iowa. At the time of implementation of the requirement, NABP's accreditation program (Verified-Accredited Wholesale Distributors, or VAWD) was the only accreditation program in the marketplace. A second program is now available and has been authorized by the Board in a number of waiver petitions as an initial accreditation to meet the minimum standard until VAWD accreditation can be attained. Due to the limited time since initiation of the QAS program and the reported length of time to attain accreditation through NABP, the Board is proposing to allow QAS accreditation in lieu of NABP's accreditation to initiate licensure in Iowa and continue to require NABP's accreditation for the licensee's second renewal. Additionally, NABP has renamed its accreditation program to NABP drug distributor accreditation.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 29, 2020. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

PHARMACY BOARD[657](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **17.3(1)“c”** as follows:

c. Evidence of current ~~verified-accredited-wholesale-distributors (VAWD)~~ drug distributor accreditation by the National Association of Boards of Pharmacy (NABP). This requirement does not apply to new applicants located in Iowa which must undergo an opening inspection by a board compliance officer or agent of the board prior to issuance of an initial license. Wholesale distributors located in Iowa shall provide evidence of ~~VAWD~~ NABP drug distributor accreditation on or before license renewal, except as provided in this subrule. In lieu of NABP drug distributor accreditation for initial licensure in Iowa, an applicant may submit evidence of current quality and security (QAS) accreditation by the National Coalition for Drug Quality and Security (NCDQS). The licensee shall submit evidence of current NABP drug distributor accreditation prior to the second renewal of the license.

ITEM 2. Amend subrule 43.3(1) as follows:

43.3(1) Application. The applicant shall complete an application which requires demographic information about the 3PL, ownership information, information about the 3PL's registered agent located in Iowa, information about the 3PL's licensure or registration with other state and federal regulatory authorities, criminal and disciplinary history information, and a description of the scope of services to be provided in Iowa. If the applicant is not located in Iowa, the applicant shall submit evidence that the applicant has a valid license or registration in the home state or provide evidence that the home state does not require licensure. The applicant shall provide evidence of current ~~verified-accredited-wholesale-distributors (VAWD)~~ drug distributor accreditation by the National Association of Boards of Pharmacy (NABP). This requirement does not apply to new applicants located in Iowa which must undergo an opening inspection by a board compliance officer or agent of the board prior to issuance of an initial license pursuant to subrule 43.3(3). 3PL distributors located in Iowa shall provide evidence of ~~VAWD~~ NABP drug distributor accreditation on or before license renewal, except as provided in this subrule. In lieu of NABP drug distributor accreditation, an applicant for initial licensure may provide evidence of current quality and security (QAS) accreditation through National Coalition for Drug Quality and Security (NCDQS). The licensee shall provide evidence of current NABP drug distributor accreditation prior to the second renewal of the license. An application for a 3PL license, including an application for registration pursuant to 657—Chapter 10, if applicable, will become null and void if the applicant fails to complete the licensure process, including opening for business, within six months of receipt by the board of the required application(s).

ARC 5163C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

**Proposing rule making related to continuing education hours
and providing an opportunity for public comment**

The Board of Speech Pathology and Audiology hereby proposes to amend Chapter 303, “Continuing Education for Speech Pathologists and Audiologists,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272C.2.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.2.

Purpose and Summary

This proposed rule making amends the Board's continuing education rules to remove the 16-hour cap on remote continuing education hours. Under the new requirement, licensees may complete all hours through remote offerings, provided the remote activity or course includes a posttest.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 29, 2020. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Fifth Floor Room 526
Des Moines, Iowa 50319
Phone: 515.242.6529
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 29, 2020
9 to 9:30 a.m.

Option 2: Join by video system
1465147897@webex.com

Option 1: Join Webex hearing on
www.webex.com, click "JOIN,"
then enter the following information:
Meeting ID Number: 1465147897
Password: bZ9afPM@

Option 3: Join by phone +1 408.418.9388
(toll) Access code: 146 514 789 7

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend paragraph **303.3(2)“f”** as follows:

f. ~~A maximum of 16 hours of continuing~~ Continuing education credit may be earned ~~per biennium~~ by participation in continuing education programs and activities which meet the criteria in this rule and which are completed through journal readings, teleconference or videoconference participation, and online program participation. In addition, such programs and activities must include a posttest that the participant must pass in order to receive continuing education credit.

ARC 5170C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to abandoned vehicles
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 480, “Abandoned Vehicles,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.89.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.71, 321.89 and 321.90.

Purpose and Summary

The proposed rule making relates to the processing of abandoned vehicles by a police authority or a private entity and aligns with existing legal authority and Department practice. Chapter 480 and Iowa Code section 321.89 provide a specific process for taking possession and disposing of an abandoned vehicle. The intent of this rule making is to clarify the process for disposal of abandoned vehicles and to protect lienholders or others with a legal interest in the abandoned vehicle. The following paragraphs further explain the proposed amendments:

Definitions. A new definition of “bidder registry” is added and the definition of “public auction” is amended to reflect the current options for conducting a public auction, including by electronic means, and to remove the requirement that the highest bidder is awarded the property if the bid represents the fair market value of the property. The intent of this proposed amendment is to encourage use of a public auction to get the most value for the vehicle without necessarily requiring the bid to reach the vehicle’s fair market value.

Abandoned vehicle records. The proposed amendments specify the required abandoned vehicle records that a police authority or private entity must maintain to be available for inspection by a peace officer or employee of the Department if the vehicle is auctioned off or transferred to a demolisher. The required records to be available for inspection include the lien results, the National Motor Vehicle Title

TRANSPORTATION DEPARTMENT[761](cont'd)

Information System (NMVTIS) report when no Iowa owner or lienholders are identified, the impound report, the abandoned vehicle notice, the proof of advertisement of a public auction, the certificate of disposal, a copy of the bidder registry and a copy of the affidavit of sale. Maintenance of these records will help ensure compliance with the steps for processing abandoned vehicles, which will reduce fraud and protect consumers.

Preconditions of sale. A new subrule is added to require a private entity or police authority to verify that the preconditions of selling an abandoned vehicle required under Iowa Code section 321.89 have been met prior to the sale of an abandoned vehicle. The intent of this subrule is to clarify who is responsible for verifying the preconditions of sale under Iowa Code section 321.89 prior to the sale.

Public auction. The proposed amendments address the following requirements related to conducting a public auction of an abandoned vehicle:

- Clarifying that an initial bid at a public auction for the abandoned vehicle may be set at the amount that equals the actual cost of storage and towing of the vehicle.
- Limiting a police authority or private entity to two attempts at selling an abandoned vehicle at auction. If the vehicle cannot be sold at auction after two attempts, or if a sale cannot otherwise be made with enough proceeds to cover expenses associated with processing the abandoned vehicle, then the abandoned vehicle shall be transferred to a vehicle demolisher. This provision will help reduce the incentive to commit fraud. Because a police authority or private entity is entitled to recoup any unreimbursed costs for processing an abandoned vehicle from the Road Use Tax Fund in accordance with Iowa Code section 321.89(4)“b,” the Department wants to ensure everything possible is being done to achieve the highest sale price for the abandoned vehicle.
- Ensuring that interested members of the public are aware that a vehicle is being offered for sale by adopting certain advertising requirements, which will reduce claims that no one showed up at the public auction to bid on an abandoned vehicle.
- Complying with the requirements under Iowa Code section 321.89 that a public auction, if one was held, actually took place by requiring a bidder registry.
- Requiring a seller of an abandoned vehicle at auction to complete an odometer disclosure statement when an odometer statement is required under Iowa Code section 321.71.
- Clarifying that the costs of advertising the public auction to sell an abandoned vehicle, when submitted with the abandoned vehicle report, are reimbursable in accordance with Iowa Code section 321.89(4)“c” and Chapter 480.

Good-faith purchaser. New subrules are added to create consistency with Iowa Code section 321.89(4)“a” by protecting good-faith purchasers of abandoned vehicles that might otherwise be encumbered by liens. The proposed amendments provide that despite any noncompliance on the part of the police authority or private entity with the requirements for disposing of an abandoned vehicle, a good-faith purchaser of an abandoned vehicle takes title free and clear of all liens and a county treasurer shall process the registration and issue a title for an abandoned vehicle accordingly.

Fiscal Impact

In fiscal year 2019, the Department reimbursed approximately \$309,519 to police authorities and private entities for the processing of abandoned vehicles under Iowa Code section 321.89. This breaks down to an average of \$300 in reimbursement of costs for approximately 1,032 abandoned vehicles. The proposed amendments are not anticipated to result in a significant amount of additional abandoned vehicles being processed each fiscal year because the amendments mostly clarify the process. However, if more public auctions were held because of the proposed amendments authorizing the use of electronic public auctions, the Department might assume that 20 additional vehicles may be sold at public auctions each fiscal year, which translates to an additional \$6,000 (20 x \$300) of reimbursement being paid out of the Road Use Tax Fund each fiscal year.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

TRANSPORTATION DEPARTMENT[761](cont'd)

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 29, 2020. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear requested oral presentations will be held on October 1, 2020, via conference call from 9 to 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on September 29, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs. The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following new definition of "Bidder registry" in rule **761—480.1(321)**:

"*Bidder registry*" means a record of all persons who have registered to bid at a public auction.

ITEM 2. Amend rule **761—480.1(321)**, definition of "Public auction," as follows:

"*Public auction*," when used in Iowa Code section 321.89, means ~~a conventional oral~~ an auction setting open to the general public where. A public auction may be by electronic means, by sealed bid, or a conventional oral auction. The highest bidder is awarded the property. When the auction is a conventional oral auction, bidders shall register and bring the required bid deposit with them to the auction on the day and at the location and time specified for the sale, if a bid deposit is required. Bidders bid against each other one another until bidding stops. The high bidder is awarded the property provided the bid represents the fair market value of the property.

ITEM 3. Amend rule 761—480.2(321) as follows:

761—480.2(321) Location. Information, forms and instructions are available from: ~~Office of~~ Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 9278,

TRANSPORTATION DEPARTMENT[761](cont'd)

Des Moines, Iowa 50306-9278 or the department's ~~Web site~~ website at <http://www.iowadot.gov/mvd> www.iowadot.gov.

ITEM 4. Amend rule 761—480.3(321) as follows:

761—480.3(321) General requirements.

480.3(1) and **480.3(2)** No change.

480.3(3) To request reimbursement, the police authority or private entity shall complete and submit to the department an abandoned vehicle report on a form and in the manner prescribed by the department. Other forms may be accepted if they contain all information deemed necessary by the department.

480.3(4) A police authority shall also complete and submit the prescribed abandoned vehicle report form when remitting unclaimed profits pursuant to rule 761—480.7(321).

480.3(5) to **480.3(7)** No change.

480.3(8) A police authority or a private entity designated by a police authority holding a public auction may set the initial bid at an amount that equals the actual cost of storage and towing.

480.3(9) A police authority or private entity processing an abandoned vehicle shall maintain records for three years from the sale at a public auction or transfer of a motor vehicle to a demolisher. The records shall be open to inspection by any peace officer or any employee of the department. The required documents to be made available for inspection shall include:

a. The motor vehicle record request results letter issued by the department with lien information; or evidence that a motor vehicle record was reviewed for owners and liens through other legal means.

b. The National Motor Vehicle Title Information System (NMVTIS) report when no Iowa owner or lienholders are identified.

c. The impound report with the date of abandonment.

d. One copy of the dated notice sent by the police authority or private entity to each owner and lienholder or proof of publication of notice with the publication date visible.

e. One copy of actual newspaper page advertising each public auction with advertisement and date visible.

f. A copy of the certificate of disposal for the private entity.

g. The bidder registry for the police authority or private entity designated by a police authority holding a public auction.

h. A copy of affidavit of sale on a form prescribed by the department.

480.3(10) A police authority or private entity shall verify that the provisions of this chapter have been executed, prior to the sale of the abandoned vehicle, on a form prescribed by the department.

480.3(11) A police authority or private entity shall be limited to two attempts at selling an abandoned vehicle at a public auction. If the police authority or private entity cannot make a satisfactory sale at two public auctions, or if a sale cannot otherwise be made with enough proceeds to cover the expenses and costs in carrying out the abandoned vehicle process, the police authority or private entity shall sell or dispose of the vehicle to a demolisher for junk.

480.3(12) A purchaser in good faith of a motor vehicle sold as a result of the abandoned vehicle process takes the motor vehicle free of all rights of all persons, including holders of preexisting liens, notwithstanding any police authority or private entity's noncompliance with this chapter.

480.3(13) Upon presentation of a sales receipt, a county official shall process the registration and issuance of title to the purchaser free of all rights of all persons, including holders of preexisting liens, notwithstanding any police authority or private entity's noncompliance with this chapter.

ITEM 5. Renumber rules **761—480.4(321)** and **761—480.5(321)** as **761—480.7(321)** and **761—480.8(321)**.

ITEM 6. Adopt the following **new** rule 761—480.4(321):

761—480.4(321) Advertising.

TRANSPORTATION DEPARTMENT[761](cont'd)

480.4(1) A public auction shall be advertised at least seven days in advance within the county where the auction will take place or where the vehicle is physically located. At minimum, the manner of the advertising shall be:

- a. Published in a newspaper which meets the requirements set forth in Iowa Code section 618.3; and
- b. Posted in a conspicuous manner viewable to the public at the location where the public auction will occur. If the public auction is to be conducted by electronic means, the location shall be the specific website to be used for the auction.

480.4(2) If a vehicle is not sold at the scheduled public auction, any subsequent attempt to sell the vehicle by auction must be preceded by advertising pursuant to this rule.

ITEM 7. Adopt the following new rule 761—480.5(321):

761—480.5(321) Bidder registry.

480.5(1) A police authority or private entity designated by a police authority shall maintain for three years the bidder registry for each auctioned vehicle sold or offered for sale at a public auction. The bidder registry shall be open for inspection by any peace officer or department employee. For each auctioned vehicle, the bidder registry shall contain:

- a. The full name of the bidder.
- b. The bona fide address of the bidder.
- c. A telephone number of the bidder.
- d. The date of the auction.
- e. The auctioned vehicle's make, model, model year, and vehicle identification number.
- f. The location of the auction.

480.5(2) Reserved.

ITEM 8. Adopt the following new rule 761—480.6(321):

761—480.6(321) Odometer statement.

480.6(1) When a vehicle is sold at a public auction and the seller cannot attest to the true mileage reading of the vehicle's odometer, the seller shall complete the odometer disclosure statement, when required pursuant to Iowa Code section 321.71, in the following manner:

- a. The odometer statement shall reflect the odometer mileage reading at the time of sale; and
- b. The odometer statement shall be marked indicating "odometer discrepancy," certifying the odometer mileage reading is not the actual mileage.

480.6(2) The subsequent title issued for the vehicle shall record the vehicle's mileage is "not actual."

ITEM 9. Amend renumbered subrule 480.7(4) as follows:

480.7(4) Receipts. The police authority or private entity shall submit with the abandoned vehicle report detailed receipts showing payment for each expense incurred. A receipt must identify the date(s) of occurrence of the expense; for example, a receipt for storage must identify the beginning and ending dates. A receipt for both towing and storage must show separately the towing charge and the storage charge per day. Reimbursement shall be limited as follows:

- a. to c. No change.
- d. Advertising—up to \$20 per auction, or advertising receipt totals for two auctions, whichever is less, not to exceed \$40 total.
- ~~d. e.~~ Auction expenses—10 percent of the vehicle's sale price or \$10 per vehicle, whichever is less. A receipt is not required for auction expense reimbursement.

ITEM 10. Amend **761—Chapter 480**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 321.71, 321.89 and 321.90.

ARC 5173C**CHIEF INFORMATION OFFICER, OFFICE OF THE[129]****Adopted and Filed****Rule making related to broadband infrastructure and grants and Empower Rural Iowa**

The Office of the Chief Information Officer hereby amends Chapter 20, “Broadband Infrastructure—Targeted Service Areas,” Chapter 21, “Broadband Infrastructure—Project Certification,” and Chapter 22, “Broadband Grants Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 8B.4(5), 8B.10(2), 8B.11(8) and 427.1(40) and 2020 Iowa Acts, Senate File 2400.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 8B.1, 8B.10, 8B.11 and 427.1(40) and 2020 Iowa Acts, Senate File 2400.

Purpose and Summary

These amendments interpret and implement 2020 Iowa Acts, Senate File 2400, relating to broadband service, including matters under the purview of the Chief Information Officer, the Empower Rural Iowa Broadband Grant Fund, and certain broadband infrastructure tax exemptions.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 29, 2020, as **ARC 5110C**. A public hearing was held by teleconference on August 18, 2020, at 9 a.m. The Iowa Communications Alliance requested a nonsubstantive change to the definitions proposed in the Notice in rule 129—20.1(8B,427). The Iowa Communications Alliance made the same request through written means.

The Office agreed with the Iowa Communications Alliance’s proposed change. As a result, the Office eliminated the definition of “materially served” from the Adopted and Filed rule making and will only use the term “materially underserved.” This does not change the substance or operation of the Adopted and Filed rule making as compared to the original Notice, but does better align the final rules with the language used in 2020 Iowa Acts, Senate File 2400, and avoids the potential for any perception that an area is in fact materially served if 10 percent or more of the area has access to 25/3 Mbps broadband. The Office agrees that while an area is materially underserved if less than 10 percent of the area has access to 25/3 Mbps broadband, the opposite is not necessarily true, and exclusively using the term “materially underserved” avoids any potential for confusion on this issue.

In addition, the placeholder text “[the effective date of these amendments]” in Item 3 was removed and replaced with the effective date of this rule making, October 14, 2020.

Adoption of Rule Making

This rule making was adopted by the Office on September 2, 2020.

Fiscal Impact

In administering programs for fiscal year 2020-2021, the Office will use existing budget and resources.

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

Jobs Impact

These amendments and continued support and operation of these programs will lead to the deployment of additional broadband projects by communications service providers and therefore increased job opportunities across the state.

Waivers

The Office's general waivers chapter is located at 129—Chapter 7.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 14, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 129—20.1(8B,427) as follows:

129—20.1(8B,427) Definitions. The definitions in Iowa Code section 8B.1 as amended by ~~2019 Iowa Acts, House File 772~~ 2020 Iowa Acts, Senate File 2400, shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall apply.

“As of date” means the as of date of the broadband availability maps and corresponding data sources utilized by the office in determining whether a communications service provider ~~offers or~~ facilitates broadband service in a particular ~~census~~ broadband block at or above the download and upload speeds specified in the definition of targeted service area and underlying the statewide map published and then in effect in accordance with rules 129—20.3(8B,427) and 129—20.4(8B,427). ~~For example, until the office publishes an updated version of the statewide map in accordance with rules 129—20.3(8B,427) and 129—20.4(8B,427), the as of date remains July 1, 2015, which is the as of date of the first statewide map.~~

“Broadband block” means:

1. Until the Federal Communications Commission (FCC) adopts a different or more granular unit of measurement(s) by appropriate regulation or order (such as location-specific, address-specific, or polygon-based), a census block.

2. If the FCC adopts a different or more granular unit of measurement(s) by appropriate regulation or order (such as location-specific, address-specific, or polygon-based), for purposes of the next iteration of the statewide map published in accordance with rule 129—20.4(8B,427) following the FCC's adoption of such unit of measurement(s), such unit of measurement(s) as adopted by the FCC and which is located in this state.

“Broadband unit” or *“broadband units”* means a home, farm, school, or business within a broadband block as of the as of date. The number of broadband units within a broadband block shall be as represented on the statewide map published in accordance with rule 129—20.4(8B,427).

“Census block” means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block.

“Chief information officer” or *“CIO”* means the state chief information officer or the state chief information officer's designee.

“Installation of the broadband infrastructure” means the labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband

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services. “Installation of the broadband infrastructure” does not include the process of removing existing infrastructure, fixtures, or other real property in preparation of installation of the broadband infrastructure.

“Materially underserved” means a broadband block within which less than 10 percent of the geographic area comprising the broadband block is facilitated with broadband service at or above the download and upload speeds identified by the FCC pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended.

“Meaningfully available” means broadband service that is facilitated to consumers on a commercially reasonable basis and without significant interruption or delay. In determining whether broadband service is meaningfully available on a commercially reasonable basis, the office may consider product or delivery attributes or characteristics such as availability in terms of average uptime and downtime or latency or delays in the transmission of data.

“Targeted service area” means a broadband block:

1. Within which no communications service provider facilitates broadband service at or above the download and upload speeds identified by the FCC pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended; or

2. That is materially underserved or without meaningfully available broadband service by one or more communications service providers at or above the download and upload speeds identified by the FCC pursuant to Section 706 of the federal Telecommunications Act of 1996, as amended, as of the as of date.

ITEM 2. Amend rule 129—20.2(8B,427) as follows:

129—20.2(8B,427) Scope. This chapter interprets relevant provisions of Iowa Code sections 8B.1, 8B.10, and 8B.11 as amended by ~~2019 Iowa Acts, House File 772~~ 2020 Iowa Acts, Senate File 2400; implements Iowa Code section 427.1(40) as amended by ~~2019 Iowa Acts, House File 772~~ 2020 Iowa Acts, Senate File 2400; and applies to the office’s determinations of whether a census broadband block is a targeted service area and to persons who wish to challenge the office’s finding on whether a census broadband block is a targeted service area.

ITEM 3. Amend rule 129—20.3(8B,427) as follows:

129—20.3(8B,427) Broadband availability maps and data sources.

20.3(1) To determine whether a communications service provider ~~offers or~~ facilitates broadband service in a particular census broadband block at or above the download and upload speeds specified in the definition of targeted service area as of the as of date, the office ~~utilizes fixed~~ may utilize the following data sources:

a. Fixed broadband availability maps and corresponding data sources made available by the Federal Communications Commission (FCC) FCC online, which as of September 18, 2019 October 14, 2020, was available at www.fcc.gov/general/broadband-deployment-data-fcc-form-477. Such maps and data sources are widely accepted for accuracy and made available for public review and comment. By selecting these maps and data sources, the office has satisfied its obligation to reference broadband availability maps or data sources that are widely accepted for accuracy and available for public review and comment as required by Iowa Code section 8B.10(1).

b. Broadband availability maps and corresponding data sources developed or produced by contractors or third parties retained or utilized by the office for such purpose.

c. For purposes of identifying or verifying the number and location of broadband units within a broadband block, next generation (NG) 911 structure data, statewide address location data, or United States census data.

d. Other data sources made available by or through federal agencies, directly or indirectly.

20.3(2) In accordance with Iowa Code section 8B.10(3) as enacted by 2020 Iowa Acts, Senate File 2400, all data sources relied on by the office in making the determination(s) contemplated by this rule

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and rule 129—20.4(8B,427) shall exclude mobile wireless or satellite data, capabilities, and delivery mediums.

ITEM 4. Amend rule 129—20.4(8B,427) as follows:

129—20.4(8B,427) Targeted service area determination.

20.4(1) The office will create a statewide map divided into census broadband blocks. Based on the maps and data sources referenced in rule 129—20.3(8B,427), the statewide map will designate census broadband blocks ~~within which, that qualify as targeted service areas as of the as of date, no communications service provider offered or facilitated broadband service to the public at or above the download and upload speeds specified in the definition of targeted service area.~~ This statewide map shall be published online at ocio.iowa.gov/broadband.

20.4(2) In accordance with Iowa Code section 8B.10(1) as amended by 2019 Iowa Acts, House File 772 2020 Iowa Acts, Senate File 2400, the office shall periodically make renewed determinations of whether a communications service provider ~~offers or~~ facilitates broadband service at or above the download or upload speeds specified in the definition of targeted service area by publishing an updated version of the statewide map. Such updates shall be made, to the extent updated maps and data sources are available at the time, no less frequently than prior to each round of grant applications solicited by the office pursuant to Iowa Code section 8B.11 as amended by 2019 Iowa Acts, House File 772 2020 Iowa Acts, Senate File 2400.

20.4(3) As of the date of the office's publication of each version of the statewide map online at ocio.iowa.gov/broadband, targeted service area designations as shown on the statewide map shall be considered the office's final determination and finding of whether a particular census broadband block constitutes a targeted service area, unless a person or party successfully challenges the office's determination pursuant to the appeals and contested case process outlined in this chapter, in which case the office will update the statewide map to reflect the outcome of such challenge(s). For the sake of clarity, failure to challenge the office's determination and finding of whether a particular census broadband block constitutes a targeted service area by filing a notice of appeal within the 20-day period established by subrule 20.5(1) shall render the office's determination and finding with respect to that particular census broadband block final and no longer subject to challenge. A party's failure to challenge the office's determination and finding of whether a particular census broadband block constitutes a targeted service area by filing a notice of appeal within the 20-day period established by subrule 20.5(1) shall be deemed a failure to exhaust administrative remedies.

20.4(4) ~~Until the office publishes an updated version of the statewide map in accordance with this rule, the as of date for purposes of determining whether any communications service provider offered and facilitated broadband service to the public at or above the download and upload speeds specified in the definition of targeted service area in accordance with Iowa Code section 8B.10(1) as amended by 2019 Iowa Acts, House File 772, and rule 129—20.3(8B,427) and this rule shall remain July 1, 2015, which is the as of date of the first statewide map. Thereafter, the as of date shall be the same as the as of date of the maps and corresponding data sources utilized by the office each time the office makes its renewed determination in accordance with Iowa Code section 8B.10(1) as amended by 2019 Iowa Acts, House File 772, and rule 129—20.3(8B,427) and this rule.~~

ITEM 5. Amend subrules 20.5(1), 20.5(4), 20.5(5) and 20.5(8) as follows:

20.5(1) Notice of appeal. Within 20 days after the office makes its final determination of whether a particular census broadband block constitutes a targeted service area pursuant to rule 129—20.4(8B,427), any person or party aggrieved or adversely affected by such determination may challenge the office's finding by filing a notice of appeal with the office.

a. The notice of appeal shall set forth:

(1) The name, address, telephone number, and email address of the person or party;

(2) The particular ~~census block~~ broadband block(s) designation the person or party is challenging by stating:

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1. The ~~eensus~~ broadband block ~~number~~ number(s) or other unique identifier as provided on the statewide map referenced in rule 129—20.4(8B,427);

2. The county in which the ~~eensus-block~~ broadband block(s) is located as provided on the statewide map referenced in rule 129—20.4(8B,427);

(3) and (4) No change.

b. No change.

20.5(4) Internal review. At the end of the time periods specified in subrules 20.5(1) and 20.5(3), the office shall consolidate all appeals involving the same ~~eensus-block~~ broadband block(s) and conduct an internal review of the evidence and information submitted by all appellants related thereto, in conjunction with any other evidence and information submitted by any affected persons or parties pursuant to subrule 20.5(3), the maps and data sources identified and originally utilized in ~~rule~~ rules 129—20.3(8B,427) and 129—20.4(8B,427), and any other information deemed relevant by the office.

20.5(5) Final agency decision. Following the internal review set forth in subrule 20.5(4), the office will issue a final agency decision stating the reasons for the office's decision concerning the ~~eensus~~ broadband block(s) in question. In issuing the decision, the office shall consider the evidence and information submitted by all appellants related thereto, in conjunction with any other evidence and information submitted by any affected persons or parties pursuant to subrule 20.5(3), the maps and data sources identified and originally utilized in ~~rule~~ rules 129—20.3(8B,427) and 129—20.4(8B,427), and any other information deemed relevant by the office. The final agency decision will be posted online at ocio.iowa.gov/broadband. The final agency decision shall become final unless within 30 days of such posting an appellant or an affected person or party that submitted evidence in support of, or in opposition to, the appeal files a request for a contested case proceeding pursuant to rule 129—20.6(8B,427).

20.5(8) Probative evidence and information. Examples of evidence and information the office would consider particularly probative of broadband service at or above the download and upload speeds specified in the definition of targeted service area as of the as of date for purposes of adjudicating an appeal of the office's determination of whether a particular ~~eensus~~ broadband block constitutes a targeted service area include:

a. Signed attestations submitted to the office under penalty of perjury on forms provided by the office that the applicable ~~eensus~~ broadband block(s) was or was not served as of the as of date with broadband service at or above the download and upload speeds specified in the definition of targeted service area.

b. Bills or invoices provided to or received by customers in the applicable ~~eensus~~ broadband block(s) which identify the specific download and upload speeds provided or received as of the as of date.

ITEM 6. Amend subrules 20.6(1) and 20.6(2) as follows:

20.6(1) Notice of hearing. Upon receipt of a request for a contested case proceeding, the office shall inform the department of inspections and appeals of the filing and of relevant information pertaining to the appeal in question. The department of inspections and appeals shall send a written notice of the date, time and location of the hearing to all affected persons or parties who initiated a contested case related to the ~~eensus-block~~ broadband block(s) forming the basis of the contested case, or appealed the office's determination of the ~~eensus-block~~ broadband block(s) forming the basis of the contested case pursuant to subrule 20.5(1), or submitted evidence or information to the office pursuant to subrule 20.5(3) directly related to the ~~eensus-block~~ broadband block(s) forming the basis of the contested case. The presiding officer shall hold a hearing on the matter within 60 days of the date the notice of appeal was received by the office.

20.6(2) Consolidation. In the event any contested cases concerning the same ~~eensus-block~~ broadband block(s) are initiated separately, such matters shall be consolidated.

ITEM 7. Amend rule 129—21.2(8B,427) as follows:

129—21.2(8B,427) Scope. This chapter applies to communications service providers who request certification pursuant to Iowa Code section 427.1(40) from the office that an installation of the

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broadband infrastructure will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area in a targeted service area(s).

ITEM 8. Amend rule 129—21.3(8B,427) as follows:

129—21.3(8B,427) Application for certification. Applications for certification shall be completed and submitted by the means specified online at ocio.iowa.gov/broadband. In order to receive certification from the office, applications must be filled out in their entirety. Communications service providers making application to the office will be required to certify that all of the information contained in the application is accurate. If it is later determined that any of the information contained in the application is inaccurate, the office may revoke the certification, in whole or in part. An application for certification shall include without limitation the following information:

1. No change.
2. The ~~eensus~~ broadband block number(s) or other unique identifier as provided on the statewide map referenced in rule 129—20.4(8B,427) for the targeted service area(s) forming the basis of the application (i.e., the targeted service area(s) in which the installation of the broadband infrastructure will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area);
3. to 5. No change.

ITEM 9. Amend rules 129—21.6(8B,427) and 129—21.7(8B,427) as follows:

129—21.6(8B,427) Contents of certification. The certification shall state the communications service provider for which the certification is being issued, the ~~eensus~~ broadband block number(s) (as provided on the map referenced in rule 129—21.4(8B,427)) of the targeted service area(s) for which the certification is being issued and county(s) in which such targeted service area(s) resides, that the office has determined the ~~eensus~~ broadband block(s) in which the installation will facilitate broadband service are targeted service area(s), that the broadband infrastructure will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area, and the date on which the certification is issued by the office. Such certification shall be signed by the CIO.

129—21.7(8B,427) Targeted service areas subject to challenge. To the extent an application for certification satisfies all other requirements of this chapter, if at the time such application is filed the office's determination of whether a particular ~~eensus~~ broadband block forming the basis of such application, in whole or in part, is a targeted service area currently subject to challenge pursuant to the appeal and contested case procedures set forth in 129—Chapter 20, or the judicial review and appeal procedures outlined in Iowa Code sections 17A.19 and 17A.20, the office will issue a certification. Notwithstanding the foregoing, the aspect(s) of the office's certification concerning ~~eensus~~ broadband blocks forming the basis of the application for certification that is currently subject to such challenge shall be purely contingent and valid only to the extent the office's original determination is ultimately upheld at the end of the entire appeals process once final, including judicial review and any subsequent appeal. For purely administrative purposes, if a portion of an application for certification is later deemed invalid by operation of this rule, the office may require the communications service provider to file a new application pursuant to rule 129—21.3(8B,427).

ITEM 10. Amend rule 129—22.1(8B) as follows:

129—22.1(8B) Definitions. The definitions in Iowa Code section 8B.1 as amended by ~~2019 Iowa Acts, House File 772~~ 2020 Iowa Acts, Senate File 2400, and rule 129—20.1(8B,427) shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall apply:

“*Grantee*” means a communications service provider awarded grant funds by the office pursuant to and in accordance with Iowa Code section 8B.11 and these rules.

“*Project*” means an installation of broadband infrastructure by a communications service provider that facilitates broadband service at or above the download and upload speeds specified in ~~the definition~~

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~~of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in one or more targeted service areas.

ITEM 11. Amend rule 129—22.2(8B) as follows:

129—22.2(8B) Purpose and scope. This chapter applies to the broadband grants program established by Iowa Code section 8B.11 and administered by the office. As authorized by Iowa Code section 8B.11(8), this chapter interprets relevant provisions of Iowa Code sections 8B.1 and 8B.11 as amended by ~~2019 Iowa Acts, House File 772~~ 2020 Iowa Acts, Senate File 2400, and establishes program process, management, and measurement rules designed to ensure the effective and efficient administration and oversight of the program, the key objective of which is to reduce or eliminate unserved and underserved areas in the state, leveraging federal funds and public and private partnerships where possible, by awarding grants to communications service providers that reduce or eliminate targeted service areas by installing broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in ~~the definition of targeted service area in accordance with Iowa Code section 8B.11~~ section 8B.11(5) “a” or “b” as amended enacted by 2019 Iowa Acts, House File 772 2020 Iowa Acts, Senate File 2400, whichever is applicable, and in accordance with Iowa Code section 8B.11 and this chapter.

ITEM 12. Amend subrules 22.4(1) and 22.4(2) as follows:

22.4(1) Application process. Following the issuance of a NOFA by the office, communications service providers may apply to the office for grant funds for the installation of broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable. Applications shall be made and submitted in accordance with the terms of these rules and the NOFA.

22.4(2) Contents of application. In addition to any other questions or requirements established by the NOFA, an application shall, at a minimum, include:

a. and b. No change.

c. The ~~census~~ broadband block number(s) as provided on the statewide map referenced in rule 129—20.4(8B,427) for the targeted service area(s) forming the basis of the application/project (i.e., the targeted service area(s) in which the proposed installation of broadband infrastructure will facilitate broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable);

d. Attestation that the broadband infrastructure installed will facilitate broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable;

e. Unless a specific cost allocation methodology is identified or required by the office as set forth in the NOFA, the specific methods or formulas the communications service provider will utilize in allocating the costs of and for broadband infrastructure for which reimbursement may be sought in proportion to such infrastructure’s actual facilitation of broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in the targeted service areas forming the basis of the project;

f. No change.

ITEM 13. Amend paragraph **22.5(1)“b”** as follows:

b. As required by Iowa Code section 8B.11(3) ~~as amended by 2019 Iowa Acts, House File 772~~, the period for public comment will include the opportunity for the public to submit factual information as part of a validation process to address claims that a targeted service area forming the basis of an application received by the office is currently served with broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or

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“b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable. Examples of such factual information the office would consider particularly probative of current service include:

(1) Signed attestations submitted to the office under penalty of perjury on forms provided by the office that such targeted service areas are currently served with broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable.

(2) Bills or invoices provided to or received by customers in such targeted service areas which identify current broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable.

To the extent such factual information is credible and verifiable, the office may consider such factual information in considering the relative need factor set forth in Iowa Code section 8B.11(4) “a” and paragraph 22.5(3) “a” in determining whether, to which projects, and in what amount(s) to award grant funds. In addition, to the extent such factual information is credible and verifiable, such factual information may result in the disqualification of a project where the factual information demonstrates that a material portion of the proposed project is currently served with broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400. Further, to the extent such factual information is credible and verifiable, the office may incorporate such factual information into its next renewed determination of whether a communications service provider offers or facilitates broadband service at or above the download or upload speeds specified in the definition of targeted service area and thereby subsequent iteration of the statewide map, as determined and updated in accordance with Iowa Code section 8B.10(1) as amended by ~~2019 Iowa Acts, House File 772~~ 2020 Iowa Acts, Senate File 2400, and rules 129—20.3(8B,427) and 129—20.4(8B,427).

ITEM 14. Amend subrule 22.5(3) as follows:

22.5(3) Office final decision. Following the office’s receipt of the review committee’s input or recommendations and the closure of the period for public comment, the office will review all applications received by the deadline and otherwise warranting review in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B; the input/recommendations made by the review committee; and any public comment received, all in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B, and make a final agency decision regarding whether, to which projects, and in what amount(s) to award grant funds for the installation of broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable.

a. In so doing, the office will take into consideration the following factors, in accordance with and in the manner specified by the terms, conditions, and requirements of the NOFA, affording the greatest weight to the factors in subparagraphs 22.5(3) “a”(1), 22.5(3) “a”(2), and 22.5(3) “a”(3):

(1) No change.

(2) The applicant’s total proposed budget for the project, including ~~the~~ all of the following:

1. The amount or percentage of local or federal matching funds, if any, and any funding obligations shared between public and private entities, and the

2. The percentage of funding provided directly from the applicant, including whether the applicant requested from the office an amount less than the maximum amount the office could award pursuant to Iowa Code section 8B.11(5) as amended by 2020 Iowa Acts, Senate File 2400, and, if so, the percentage of the project cost that the applicant is requesting.

(3) and (4) No change.

(5) The percentage of ~~the homes, schools, and businesses~~ broadband units in the targeted service area(s) forming the basis of the project that will be provided access to broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, as a result

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of the project. The number of ~~homes, schools, and businesses~~ broadband units in a targeted service area ~~may~~ shall be determined by reference to the statewide map referenced in rule 129—20.4(8B,427). ~~To the extent possible in light of the current unit of measurement incorporated into current maps and data sources relied on by the office (i.e., census blocks), considering~~ Considering this factor is the means by which the office ensures underserved areas within targeted service areas are, to the extent possible, reduced or eliminated.

(6) to (8) No change.

b. In determining whether, to which projects, and in what amount(s) to award grant funds, the office will not do any of the following:

(1) Base its decision on the office's prior knowledge of any applicant except for information obtained by the office during the application process or period for public comment; ~~or~~

(2) Make an award that exceeds ~~45~~ 35 percent of any communications service provider's total estimated allowable project costs for a proposed installation of broadband infrastructure; ~~or~~

(3) Award grant funds in a manner that violates or is otherwise inconsistent with the limitations or requirements of Iowa Code section 8B.11(5) as amended by 2020 Iowa Acts, Senate File 2400.

ITEM 15. Amend subrules 22.6(2) and 22.6(3) as follows:

22.6(2) Mapping data required. Upon project completion, a grantee must supply the office with geographic information system (GIS) data in a form mutually acceptable to both the office and grantee demonstrating specifically where broadband infrastructure for which grant funds have been utilized, in whole or in part, has been installed, regardless of whether such infrastructure actually serves any customers in targeted service area(s) forming a basis of the application at the time such mapping data is supplied to the office. Such GIS data must enable the office to determine which specific ~~homes, schools, and businesses~~ broadband units within each targeted service area forming the basis of the project have access to broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, as a result of the project.

22.6(3) Reimbursements, record keeping/audits, performance/certification, and repayment. In the absence of more specific provisions in an agreement executed between a grantee and the office in accordance with these rules establishing conflicting or inconsistent terms and conditions, the following terms and conditions shall apply by default to any award of grant funds made by the office under Iowa Code section 8B.11 and these rules:

a. *Reimbursement.*

(1) General. A grantee shall only be reimbursed by the office for:

1. No change.

2. Expenditures for broadband infrastructure solely to the extent such broadband infrastructure facilitates broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, within targeted service areas forming the basis of the project; and

3. No change.

(2) No change.

b. *Performance/certification.* After the completion of a project utilizing, in whole or in part, grant funds, a grantee must:

(1) Certify to the office that the project was completed as proposed in the original application, including but not limited to that the final installation facilitates broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) "a" or "b" as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in each of the applicable targeted service areas identified in the original application, and identify the total number of ~~homes, schools, and businesses~~ broadband units actually receiving broadband service in each of the targeted service areas identified in the original application as a result of the project.

(2) Attest that any claimed, allowable expenditures are true and accurate, were directly related to the installation of broadband infrastructure that facilitates broadband service at or above the download

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and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in eligible targeted service areas forming the basis of the project, and were properly allocated in accordance with the terms, conditions, and requirements of the NOFA or grant agreement.

(3) No change.

c. Field testing. The office may, in its discretion, conduct field tests, on one or multiple occasions, for compliance with the requirements of Iowa Code sections 8B.1 and 8B.11, these rules, and any grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1) for up to five years after broadband service is certified as complete in accordance with paragraph 22.6(3) “b.” The office may exercise this right both before and after reimbursing a grantee for any claimed, allowable expenditures, but if the office elects to do so before reimbursing a grantee for any claimed, allowable expenditures, it will do so within a reasonable time, not to exceed one year, after broadband service is certified as complete in accordance with paragraph 22.6(3) “b.” Such field tests may include but not be limited to:

(1) Speed tests anywhere between a grantee’s central office and the demarcation at any customer’s location in a targeted service area or ~~census~~ broadband block in which the project was to be deployed;

(2) In the case of wireless installations, from any location in a targeted service area or ~~census~~ broadband block in which the project was to be deployed; or

(3) In the case where a grantee does not have a customer in a targeted service area being served by the installation, certification obtained by the grantee and supplied to the office from an independent third party who is a properly licensed engineer that the installation facilitates broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code sections 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in applicable targeted service areas identified in the original application. The costs of such certification shall be borne by the grantee.

d. Disbursement/repayments.

(1) A grantee shall not be entitled to the applicable portion of any grant funds or shall be obligated to repay the office the applicable portion of any grant funds previously distributed by the office to the grantee if the office determines that:

1. No change.

2. Claimed expenditures or the total amount previously reimbursed by the office exceeds ~~45~~ 35 percent of the grantee’s estimated or final total allowable project costs, whichever is less.

(2) A grantee shall not be entitled to any grant funds or shall be obligated to repay the office the entire amount of any grant funds previously distributed by the office to the grantee if the office determines that:

1. Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that was not in or does not facilitate broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in a targeted service area identified in the original application;

2. and 3. No change.

e. No change.

ITEM 16. Amend subparagraph **22.6(4)“b”(5)** as follows:

(5) Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that does not facilitate broadband service at or above the download and upload speeds specified in ~~the definition of targeted service area~~ Iowa Code section 8B.11(5) “a” or “b” as enacted by 2020 Iowa Acts, Senate File 2400, whichever is applicable, in a targeted service area identified in the original application;

ITEM 17. Amend subparagraph **22.6(4)“b”(7)** as follows:

(7) The total claimed expenditures or the amount previously reimbursed by the office exceeds ~~45~~ 35 percent of the grantee’s estimated or final total allowable project costs, whichever is less;

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

ITEM 18. Amend rule 129—22.8(8B,427) as follows:

129—22.8(8B,427) Targeted service areas subject to challenge. If at the time a grantee is awarded grant funds the office's determination of whether a particular ~~eensus~~ broadband block forming the basis of the grantee's application, in whole or in part, is a targeted service area currently subject to challenge pursuant to the appeal and contested case procedures set forth in 129—Chapter 20, or the office's administration of the award process is subject to challenge pursuant to subrule 22.5(4), including any subsequent judicial review or appeal therefrom as outlined in Iowa Code sections 17A.19 and 17A.20, the office may proceed to enter into a grant agreement with the grantee pursuant to subrule 22.6(1). Notwithstanding the foregoing or any contract executed between the parties to the contrary, the aspect(s) of the office's award(s) that is subject to such challenge at the time of such execution shall be valid and enforceable only to the extent the office's original determination or award process, as applicable, is ultimately upheld at the end of the entire appeals and contested case process once final, including judicial review and any subsequent appeal. If a ~~eensus~~ broadband block is ultimately determined to not constitute a targeted service area, or a portion of an award is later deemed invalid, in whole or in part: the grantee shall not be entitled to any grant funds or reimbursement to the extent of any such noneligibility or invalidity; the office may require the grantee to amend the grant agreement to reflect such result; and the grantee will be required to reimburse the office for any corresponding funds previously distributed by the office.

[Filed 8/18/20, effective 10/14/20]

[Published 9/9/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/20.

ARC 5174C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to MEPD program premium amounts

The Human Services Department hereby amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.3.

Purpose and Summary

This amendment adjusts federal poverty level (FPL) increments used to assess premiums for applicants and recipients with income over 150 percent of the FPL under the Medicaid for Employed People with Disabilities (MEPD) program. Iowa Code section 249A.3(2)"a"(1)(b) requires that the maximum premium payable by an individual whose income exceeds 150 percent of the official poverty guidelines shall be commensurate with the cost of state employees' group health insurance in this state. The average cost to the state for state employees' health insurance for a single person is \$829 effective January 1, 2020. Therefore, the maximum premium cannot be above that amount. The new premium scale updates the increase in the maximum premium allowed to reflect the increase in the cost of state employees' health insurance by adding an additional premium tier (1,550 percent of the FPL and above equals the \$829 premium). All other amounts are increased a small amount.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 17, 2020, as **ARC 5049C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on August 11, 2020.

Fiscal Impact

The impact to members from the increase in premiums is expected to be minimal, so the savings to the state from the premium increase also will be minimal. Based on current members, the average monthly premium increase is expected to be approximately \$1.20. With approximately 4,200 members paying premiums each month, this equates to an annual revenue increase of approximately \$61,000 (total), of which \$23,000 is the state share.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 1, 2020.

The following rule-making action is adopted:

Amend subparagraph **75.1(39)“b”(3)** as follows:

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$34 <u>\$35</u>
165% of Federal Poverty Level	\$47 <u>\$48</u>
180% of Federal Poverty Level	\$56 <u>\$57</u>
200% of Federal Poverty Level	\$66 <u>\$67</u>
225% of Federal Poverty Level	\$77 <u>\$79</u>
250% of Federal Poverty Level	\$89 <u>\$92</u>
300% of Federal Poverty Level	\$112 <u>\$115</u>
350% of Federal Poverty Level	\$137 <u>\$140</u>
400% of Federal Poverty Level	\$161 <u>\$165</u>

HUMAN SERVICES DEPARTMENT[441](cont'd)

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
450% of Federal Poverty Level	\$186 <u>\$190</u>
550% of Federal Poverty Level	\$232 <u>\$237</u>
650% of Federal Poverty Level	\$280 <u>\$286</u>
750% of Federal Poverty Level	\$329 <u>\$337</u>
850% of Federal Poverty Level	\$389 <u>\$398</u>
1000% of Federal Poverty Level	\$467 <u>\$477</u>
1150% of Federal Poverty Level	\$547 <u>\$559</u>
1300% of Federal Poverty Level	\$631 <u>\$644</u>
1480% of Federal Poverty Level	\$729 <u>\$744</u>
<u>1550% of Federal Poverty Level</u>	<u>\$829</u>

[Filed 8/18/20, effective 11/1/20]

[Published 9/9/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/20.

ARC 5175C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to pharmacy protocols for naloxone, nicotine replacement therapy, and vaccines**

The Human Services Department hereby amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

The Iowa Board of Pharmacy, in collaboration with the Iowa Department of Public Health, developed statewide protocols for pharmacists ordering and dispensing naloxone and nicotine replacement therapy (NRT) tobacco cessation products, as well as for pharmacists ordering and administering vaccines. In order to allow these expanded pharmacist practice protocols under Medicaid, the following changes are made:

- Adding "pharmacist" as a provider type eligible to enroll in the Medicaid program.
- Clarifying qualified prescriber and prescription requirements based on the pharmacist expanded practice standards.
- Amending the section related to pharmacies administering an influenza vaccine to children to apply to pharmacists providing all Medicaid-covered vaccines to children and adults, pursuant to 657—Chapter 39 and the statewide protocols. The rule making also adds Medicaid verification and reporting requirements. These changes will enable pharmacists to take advantage of the expanded practice standards while clarifying the Medicaid verification and reporting requirements for vaccines.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Amending the section related to basis of reimbursement for vaccines related to pharmacists. All billing and reimbursement of vaccines, regardless of provider type, will be through the Healthcare Common Procedure Coding System (HCPCS) to ensure consistency among providers as well as a coordinated Medicaid immunization record for the member.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 11, 2020, as **ARC 4964C**. The Department received four comments from 46 respondents on the proposed amendments. The comments and corresponding responses from the Department are divided into four topic areas as follows:

A. Enrollment of pharmacists.

Twenty-four respondents expressed support for allowing pharmacists to enroll as providers, which included updating the list of qualified prescribers.

Department response: The Department agrees with the comment; this was the reason the Department initiated the addition of a pharmacist as a new provider type, as well as updates to the qualified prescriber subrule.

B. Vaccine administration fee.

Forty-five respondents requested reconsideration of a higher amount for the vaccine administration fee or the ability of pharmacists to bill additional codes (consistent with what other providers are authorized to do) to compensate for the services. Additionally, comments indicated pharmacists should be reimbursed for vaccine administration consistent with other health care providers and not reimbursed at a reduced rate. Comments also indicated the fee would be insufficient to allow many pharmacies to continue providing this service.

Department response: As noted in the proposed amendments, the vaccine administration reimbursement for a pharmacist is set equal to the physician fee schedule. Pharmacists will be reimbursed consistent with other providers, since the physician fees are the basis for reimbursement of vaccine administration for other provider types. Any increase to the fee schedule would require additional funding, which has not been appropriated. While the proposed amendments referenced two vaccine administration procedure codes, there are six procedure codes reimbursed by Iowa Medicaid for vaccination administration. These codes take into consideration the age of the patient, the order and route of vaccines administered, and whether face-to-face counseling was provided.

The administration codes 90460–90461 or 90471–90474 are reported in addition to the vaccine product code.

- Codes 90460 and 90461 do not differentiate by routes of administration; they identify order of “first” versus “each additional” administration.

- The age designation for codes 90460 and 90461 (i.e., through the age of 18) is consistent with the age requirements under the federal Vaccines for Children (VFC) program.

- When the physician or qualified health care professional (e.g., nonphysicians if allowed under state scope of practice) provides face-to-face counseling for the patient and family during the administration of a vaccine to a patient 18 years or younger, code 90460 or a combination of codes 90460 and 90461 is reported. The medical record documentation must support that the physician or other qualified health care professional provided the vaccine counseling.

- When the physician or qualified health care professional does not provide the vaccine counseling to the patient or family or when vaccines are administered to patients older than 18 years, with or without counseling, codes 90471–90474 are reported instead of codes 90460–90461.

- Code 90471 or 90473 is reported for the “first” vaccine administered to a patient on a calendar date, and codes 90472 and 90474 are reported for “each additional vaccine” given on the same date based on its route of administration. If an immunization is the only service rendered, no enrolled Medicaid provider is authorized to bill additional codes; only the appropriate vaccine administration code and drug product code are to be billed for reimbursement.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The process to review the reimbursed rates for the codes is to use the current Medicare rate, if one exists, and determine the fiscal impact of changing the rate. The administration rates have only changed with legislative direction. They were updated to the Medicare rate for two years due to the Affordable Care Act and then dropped back to the original Medicaid rates. The last update was a 1 percent increase effective July 1, 2013. The administration codes, descriptions and reimbursed amounts are listed below.

Procedure Code	Procedure Description	Fee
Use the following codes for vaccine administration to patients 18 and under, with face-to-face counseling of the patient/family during the vaccine administration:		
90460	Immunization administration through 18 years of age by any route of administration, with counseling by physician or other qualified health care professional; first or only component of each vaccine or toxoid administered	\$19.68 VFC \$20.90 non-VFC
90461	Immunization administration through 18 years of age by any route of administration, with counseling by physician or other qualified health care professional; each additional vaccine or toxoid component administered (list separately in addition to code for primary procedure)	\$10.51 VFC and non-VFC
Use the following codes for vaccine administration to patients of any age when the administration is not accompanied by any face-to-face counseling of patients under 18, or for administration to patients over 18 with or without counseling:		
90471	Immunization administration (includes percutaneous, intradermal, subcutaneous, or intramuscular injections); one vaccine (single or combination vaccine or toxoid) with no counseling to patients under 18 years of age, or when vaccines are administered to patients older than 18 years	\$5.09
90472	Immunization administration (includes percutaneous, intradermal, subcutaneous, or intramuscular injections); each additional vaccine (single or combination vaccine or	\$5.09

HUMAN SERVICES DEPARTMENT[441](cont'd)

	toxoid) with no counseling to patients under 18 years of age, or when vaccines are administered to patients older than 18 years (list separately in addition to code for primary procedure)	
90473	Immunization administration by intranasal or oral route; one vaccine (single or combination vaccine or toxoid) with no counseling to patients under 18 years of age, or when vaccines are administered to patients older than 18 years	\$12.88
90474	Immunization administration by intranasal or oral route; each additional vaccine (single or combination vaccine or toxoid) with no counseling to patients under 18 years of age, or when vaccines are administered to patients older than 18 years (list separately in addition to code for primary procedure)	\$6.86

Refer to the fee schedule in the Provider Services section of the Iowa Medicaid Enterprise (IME) website for the most up-to-date rate information. No changes were made to the amendments based on these comments.

C. State immunization registry.

One respondent commented that by only requiring one type of vaccinator (pharmacist) to report to the state immunization registry, it creates uneven and unnecessary administrative burdens. The respondent also provided in-text edits of proposed subrule 78.42(3), regarding verification and reporting.

Department response: This section of the amendments replicates what is required under 657—Chapter 39 and the statewide protocols related to vaccine administration by pharmacists. The exception is that the rule defines the reporting period specifically as 30 calendar days following the administration of any vaccine, rather than “as soon as reasonably possible.” No changes have been made to this section.

D. Department of Public Health Vaccines for Children (VFC) Program.

One respondent recommended consideration by the Department’s VFC program to make updates to the program to overcome operational and administrative barriers, including inventory management and ordering processes. The respondent also provided in-text edits of proposed subrule 78.42(1) by striking “Payment will be made for the vaccine cost only if the VFC program stock has been depleted” and adding “Pharmacists will be allowed to use their own vaccine stock instead of the VFC program stock and be reimbursed for the cost of vaccine.”

Department response: The rule does not address the operational or administrative requirements under the Iowa Department of Public Health VFC program. Rather, the rule continues the requirement that providers enroll and obtain vaccines from the VFC program if the vaccines are being administered to a Medicaid-enrolled child. Payment by Medicaid is made for the vaccine cost only if the VFC program stock has been depleted. Section 13631 of the Omnibus Budget Reconciliation Act (OBRA) of 1993 created the VFC program as Section 1928 of the Social Security Act on August 10, 1993. Consistent with the program requirements, Medicaid-eligible children must receive vaccines through that program when available. No changes have been made to this section.

No changes from the Notice have been made.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Adoption of Rule Making

This rule making was adopted by the Department on August 11, 2020.

Fiscal Impact

To the extent that naloxone and NRT are currently being provided to Medicaid members based on a currently authorized prescriber prescription, these amendments create a different access point to the products. If a Medicaid member is not currently accessing these products through a currently authorized Medicaid provider, these amendments could increase the number of prescriptions for these categories of drugs, resulting in an increase in expenditures. The extent of this potential fiscal impact cannot be determined. To the extent pharmacists are currently administering vaccines dispensed through pharmacy point of sale, there could be two potential fiscal impacts depending on the route of vaccine administration.

1. There could potentially be savings related to the difference in the current dispensing fee (\$10.07) paid under pharmacy policy and the transition to the reimbursement of the 90471 (percutaneous, intradermal, subcutaneous or intramuscular injections) administration fee (\$5.09) under medical policy.

2. There could be an increased cost related to the difference in the current dispensing fee (\$10.07) paid under pharmacy policy and the transition to the reimbursement of the 90473 (intranasal or oral route) administration fee (\$12.88) under medical policy.

However, this only compares two procedure codes and there are six procedure codes reimbursed by Iowa Medicaid for vaccination administration. The codes take into consideration the age of the patient, the order and route of vaccines administered, and whether face-to-face counseling is provided.

Additionally, there is a potential for an increase in the number of vaccines billed by the pharmacy with these amendments, which could lead to an increase in total vaccine expenditures (product plus administration cost). The extent of this potential fiscal impact cannot be determined.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on July 30, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following new rule 441—77.57(249A):

441—77.57(249A) Pharmacists. An authorized pharmacist licensed to practice in the state of Iowa is eligible to participate in the program.

This rule is intended to implement Iowa Code section 249A.4.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend subrule 78.2(1) as follows:

78.2(1) *Qualified prescriber.* All drugs are covered only if prescribed or ordered by a ~~legally qualified practitioner~~ an Iowa Medicaid-enrolled practitioner licensed or registered to prescribe as specified in Iowa Code section 155A.3(38). ~~Pursuant to Public Law 111-148, Section 6401, any practitioner prescribing drugs must be enrolled with the Iowa Medicaid enterprise in order for such prescribed drugs to be eligible for payment.~~

ITEM 3. Amend subrule 78.2(2) as follows:

78.2(2) *Prescription required.* As a condition of payment for all drugs, including “nonprescription” or “over-the-counter” drugs that may otherwise be dispensed without a prescription or drug order, a prescription or drug order shall be transmitted as specified in Iowa Code sections 124.308, 155A.3 and 155A.27 by the practitioner to the pharmacy, subject to the provisions of Iowa Code section 155A.29 regarding refills. All prescriptions or drug orders shall be available for audit by the department.

ITEM 4. Rescind rule 441—78.42(249A) and adopt the following **new** rule in lieu thereof:

441—78.42(249A) Pharmacists providing covered vaccines. When the authorized pharmacist providing the vaccine meets all Iowa board of pharmacy expanded practice standards and Medicaid requirements, payment will be made for the following:

78.42(1) *Vaccines administered to children.* Payment will be made to an enrolled provider for an administration fee for vaccines available through the Vaccines for Children (VFC) program administered by the department of public health if the provider is enrolled in the VFC program. Payment will be made for the vaccine cost only if the VFC program stock has been depleted.

78.42(2) *Vaccines administered to adults.* Payment will be made to an enrolled provider for an administration fee and vaccine cost.

78.42(3) *Verification and reporting.* Prior to the ordering and administration of an immunization pursuant to statewide protocol, the authorized pharmacist shall consult and review the Iowa Immunization Registry Information System (IRIS) or Iowa Health Information Network (IHIN). Within 30 calendar days following administration of any vaccine, the pharmacist shall report such administration to the patient’s primary health care provider, primary physician, and IRIS or IHIN. If a patient does not have a primary health care provider, the pharmacist shall provide the patient with a written record of the vaccine administered to the patient and shall advise the patient to consult a physician.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 5. Amend subrule **79.1(2)**, provider category of “Pharmacy administration of influenza vaccine to children,” as follows:

~~Pharmacy Pharmacist vaccine
administration of influenza
vaccine to children~~

Physician fee schedule for
immunization administration

Fee schedule in effect 6/30/13
plus 1%.

ITEM 6. Amend paragraph **79.1(8)“a,”** introductory paragraph, as follows:

a. Except as provided below in paragraphs 79.1(8)“d” through ~~“i,”~~ “h,” all providers are reimbursed for covered drugs as follows:

ITEM 7. Rescind paragraph **79.1(8)“i.”**

ITEM 8. Reletter paragraphs **79.1(8)“j”** to **“l”** as **79.1(8)“i”** to **“k.”**

[Filed 8/18/20, effective 6/1/21]

[Published 9/9/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/20.

ARC 5176C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to “no anchoring” and “no boating” zoned areas on Rathbun Lake

The Natural Resource Commission (Commission) hereby amends Chapter 40, “Boating Speed and Distance Zoning,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 462A.26 and 462A.32.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 462A.26 and 462A.32.

Purpose and Summary

These amendments create new subrules allowing for the designation of “no anchoring” and “no boating” zoned areas on Rathbun Lake, which is located primarily in Appanoose County. Such zoned areas could be designated at locations where these activities would pose a risk to human safety or threaten to damage property. Current rules allow for zoned areas on Rathbun Lake that restrict the speed of watercraft and designate swimming and wading areas.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4918C**. A public hearing was held on March 3, 2020, at 12 noon at the Wallace State Office Building, Des Moines, Iowa. No members of the public attended this hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on August 13, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

This rule is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

NATURAL RESOURCE COMMISSION[571](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 14, 2020.

The following rule-making actions are adopted:

- ITEM 1. Adopt the following **new** subrule 40.5(3):
40.5(3) Areas may be designated as “no anchoring” areas.
- ITEM 2. Adopt the following **new** subrule 40.5(4):
40.5(4) Areas may be designated as “no boating” areas.

[Filed 8/19/20, effective 10/14/20]

[Published 9/9/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/20.

ARC 5177C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to licensure, practice, and discipline of physician assistants

The Iowa Board of Physician Assistants hereby amends Chapter 326, “Licensure of Physician Assistants,” Chapter 327, “Practice of Physician Assistants,” and Chapter 329, “Discipline for Physician Assistants,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76 and 2020 Iowa Acts, Senate File 2357.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 148C.

Purpose and Summary

2020 Iowa Acts, Senate File 2357, signed by Governor Reynolds on March 18, 2020, requires the Board to amend, rescind, and adopt rules in substantial compliance with sections 9 and 10 of the Act. Sections 9 and 10 of the Act instruct the Board to make numerous changes within its licensure, practice, and discipline administrative code chapters. This rule making implements the Act’s amendments, rescissions, and adoptions to the Board’s rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 3, 2020, as **ARC 5043C**. A public hearing was held on June 23, 2020, at 8 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. Public comments were submitted by the Iowa Physician Assistant Society (IPAS) stating that the proposed rules were missing a necessary change that eliminates the requirement that the supervising physician’s name appear on the prescription in paragraph 327.6(1)“d.” An additional comment made by Theresa Hagmann, PA-C, asked for clarification and/or removal of subrule 327.1(2). IPAS reiterated its comment at the August 6, 2020, Board meeting. The Board was in consensus to eliminate paragraph 327.6(1)“d” as recommended by

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

IPAS. Since publication of the Notice, new Item 10 was added to strike paragraph 327.6(1)“d.” The remaining items were renumbered accordingly.

Adoption of Rule Making

This rule making was adopted by the Board on August 6, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 14, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule ~~645—326.1(148C)~~, definitions of “Approved program,” “Opioid,” “Physician assistant,” “Remote medical site” and “Supervising physician,” as follows:

“*Approved program*” means a program for the education of physician assistants which has been accredited by the ~~American Medical Association’s Committee on Allied Health Education and Accreditation, by its successor, the Commission on Accreditation of Allied Health Education Programs, or by its successor, the Accreditation Review Commission on Education for the Physician Assistant, or its successor, or, if accredited prior to 2001, either by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.~~

“*Opioid*” means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain or opioid use disorder.

“*Physician assistant*” or “PA” means a person licensed as a physician assistant by the board.

“*Remote medical site*” means a medical clinic for ambulatory patients which is more than 30 miles away from the main practice location of a supervising physician and in which a supervising physician is present less than 50 percent of the time the site is open. “Remote medical site” ~~will~~ does not apply to nursing homes, patient homes, hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided, such as a (e.g., diet center, free clinic, site for athletic physicals, or a jail facility).

“*Supervising physician*” means a physician who supervises the medical services provided by the physician assistant consistent with the physician assistant’s education, training, or experience and who accepts ultimate responsibility for the medical care provided by the ~~physician/physician~~ physician-physician assistant team.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 2. Adopt the following **new** definition of “Collaboration” in rule **645—326.1(148C)**:

“*Collaboration*” means consultation with or referral to the appropriate physician or other health care professional by a physician assistant as indicated by the patient’s condition; the education, competencies, and experience of the physician assistant; and the standard of care.

ITEM 3. Amend rule 645—326.6(148C) as follows:

645—326.6(148C) Examination requirements. The applicant for licensure as a physician assistant shall successfully pass the certifying examination ~~for physician assistants~~ conducted by the National Commission on Certification of Physician Assistants or a successor examination approved by the board of physician assistants.

ITEM 4. Amend rule 645—326.15(148C) as follows:

645—326.15(148C,88GA,ch1020) Use of title. A physician assistant licensed under Iowa Code chapter 148C may use the words “physician assistant” after the person’s name or signify the same by the use of the letters “PA.” A person who meets the qualifications for licensure under Iowa Code chapter 148C but does not possess a current license may use the title “PA” or “physician assistant” but may not act or practice as a physician assistant unless licensed under Iowa Code chapter 148C.

ITEM 5. Amend rule 645—326.18(148C) as follows:

645—326.18(148C) Recognition of an approved program. The board shall recognize a program for education and training of physician assistants if it is accredited by ~~the American Medical Association’s Committee on Allied Health Education and Accreditation, by its successor, the Commission on Accreditation of Allied Health Educational Programs, or by its successor,~~ the Accreditation Review Commission on Education for the Physician Assistant, or its successor, or, if accredited prior to 2001, either by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.

This rule is intended to implement Iowa Code section 148C.2.

ITEM 6. Amend paragraph **326.19(3)“b”** as follows:

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

- (1) No change.
- (2) Verification of completion of 200 hours of continuing education within two years of application for reactivation, of which at least 40 percent of the hours completed shall be in Category I, or NCCPA or successor agency certification; ~~and,~~
- ~~(3) Information on each supervising physician.~~

ITEM 7. Amend rule 645—327.1(148C) as follows:

645—327.1(148C,88GA,ch1020) Duties. The medical services to be provided by the physician assistant are those for which the physician assistant has been prepared by education, training, or experience and is competent to perform. The ultimate role of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of the formal education, the physician assistant possess the knowledge, skills, and abilities necessary to provide those services appropriate to the practice setting. The physician assistant’s services may be utilized in any clinical settings including but not limited to the office, the ambulatory clinic, the hospital, the patient’s home, extended care facilities, and nursing homes. Diagnostic and therapeutic medical tasks for which the supervising physician has sufficient training or experience may be delegated to the physician assistant after a supervising physician determines the physician assistant’s proficiency and competence.

327.1(1) A physician assistant’s duties relating to prescribing, dispensing, ordering, administering, and procuring drugs and medical devices include all of the following:

- a. Administering any drug.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

b. Prescribing, dispensing, ordering, administering, and procuring drugs and medical devices. A physician assistant may plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions including but not limited to durable medical equipment, nutrition, blood and blood products; and diagnostic support services including but not limited to home health care, hospice, and physical and occupational therapy. The prescribing and dispensing of drugs may include Schedule II through V substances, as described in Iowa Code chapter 124, and all legend drugs.

c. A physician assistant may prescribe drugs and medical devices subject to all of the following conditions:

(1) The physician assistant shall have passed the national certifying examination conducted by the National Commission on the Certification of Physician Assistants or its successor examination approved by the board. Physician assistants with temporary licenses may order drugs and medical devices only with the prior approval and direction of a supervising physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient being seen by the physician assistant.

(2) The physician assistant must comply with appropriate federal and state regulations.

(3) If a physician assistant prescribes or dispenses controlled substances, the physician assistant must register with the federal Drug Enforcement Administration.

(4) The physician assistant may prescribe or order Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124 only with the prior approval and direction of a supervising physician who has sufficient training and experience. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient being seen by the physician assistant.

(5) A physician assistant shall not prescribe substances that the physician assistant's supervising physician does not have the authority to prescribe, except as allowed by paragraph 327.1(2) "n."

(6) The physician assistant may prescribe, supply, and administer drugs and medical devices in all settings, including but not limited to hospitals, health care facilities, health care institutions, clinics, offices, health maintenance organizations, and outpatient and emergency care settings.

(7) A physician assistant may request, receive, and supply sample drugs and medical devices.

(8) The board of physician assistants shall be the only board to regulate the practice of physician assistants relating to prescribing and supplying prescription drugs, controlled substances, and medical devices.

d. Supplying properly packaged and labeled prescription drugs, controlled substances, or medical devices when pharmacist services are not reasonably available or when it is in the best interest of the patient.

(1) If the physician assistant is the prescriber of the medications supplied pursuant to this paragraph, the medications supplied shall be for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician or physician assistant.

(2) A nurse or staff assistant may assist the physician assistant in supplying medications.

~~327.1(1)~~ 327.1(2) The medical services to be provided by the physician assistant are those delegated by a supervising physician. The ultimate role of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of the formal education, the physician assistant possess the knowledge, skills and abilities necessary to provide those services appropriate to the practice setting. The physician assistant's services may be utilized in any clinical settings including, but not limited to, the office, the ambulatory clinic, the hospital, the patient's home, extended care facilities and nursing homes. Diagnostic and therapeutic medical tasks for which the supervising physician has sufficient training or experience may be delegated to the physician assistant after a supervising physician determines the physician assistant's proficiency and competence. The medical services to be provided by the physician assistant also include, but are not limited to, the following:

a. to q. No change.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~r. — Administer any drug (a single dose).~~

~~s. — Prescribe drugs and medical devices under the following conditions:~~

~~(1) — The physician assistant shall have passed the national certifying examination conducted by the National Commission on the Certification of Physician Assistants or its successor examination approved by the board. Physician assistants with a temporary license may order drugs and medical devices only with the prior approval and direction of a supervising physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient's being seen by the physician assistant.~~

~~(2) — The physician assistant may not prescribe Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124. The physician assistant may order Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124 only with the prior approval and direction of a physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient's being seen by the physician assistant.~~

~~(3) — The physician assistant shall inform the board of any limitation on the prescriptive authority of the physician assistant in addition to the limitations set out in 327.1(1) "s"(2).~~

~~(4) — A physician assistant shall not prescribe substances that the supervising physician does not have the authority to prescribe except as allowed in 327.1(1) "n."~~

~~(5) — The physician assistant may prescribe, supply and administer drugs and medical devices in all settings including, but not limited to, hospitals, health care facilities, health care institutions, clinics, offices, health maintenance organizations, and outpatient and emergency care settings except as limited by 327.1(1) "s"(2).~~

~~(6) — A physician assistant who is an authorized prescriber may request, receive, and supply sample drugs and medical devices except as limited by 327.1(1) "s"(2).~~

~~(7) — The board of physician assistants shall be the only board to regulate the practice of physician assistants relating to prescribing and supplying prescription drugs, controlled substances and medical devices.~~

~~t. — Supply properly packaged and labeled prescription drugs, controlled substances or medical devices when pharmacist services are not reasonably available or when it is in the best interests of the patient as delegated by a supervising physician.~~

~~(1) — When the physician assistant is the prescriber of the medications under 327.1(1) "s," these medications shall be supplied for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician or physician assistant.~~

~~(2) — When a physician assistant supplies medication on the direct order of a physician, subparagraph (1) does not apply.~~

~~(3) — A nurse or staff assistant may assist the physician assistant in supplying medications when prescriptive drug supplying authority is delegated by a supervising physician to the physician assistant under 327.1(1) "s."~~

~~u. — When a physician assistant supplies medications as delegated by a supervising physician in a remote site, the physician assistant shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage and appropriate use of prescription drugs, controlled substances, and medical devices.~~

~~v. r. — May, at At the request of the peace officer, withdraw a specimen of blood from a patient for the purpose of determining the alcohol concentration or the presence of drugs.~~

~~w. s. — Direct medical personnel, health professionals, and others involved in caring for patients in and the execution of patient care.~~

~~x. t. — May authenticate Authenticate medical forms by signing the form and including a supervising physician's name.~~

~~y. u. — Perform other duties appropriate to a physician's physician assistant's practice.~~

~~z. v. — Health care providers shall consider the instructions of the a physician assistant to be instructions of a supervising physician if the instructions concern duties delegated to the physician assistant by the supervising physician authoritative.~~

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~~327.4(2)~~ **327.1(3)** Emergency medicine duties.

a. to d. No change.

ITEM 8. Amend rule 645—327.4(148C) as follows:

645—327.4(148C,88GA,ch1020) Remote medical site.

327.4(1) A physician assistant may provide medical services in a remote medical site if ~~one~~ any of the following ~~three~~ conditions is met:

a. The physician assistant has a permanent license and at least one year of practice as a physician assistant; ~~or~~

b. The physician assistant with less than one year of practice has a permanent license and meets all of the following criteria:

(1) The physician assistant has practiced as a physician assistant for at least six months; ~~and~~

(2) The physician assistant and supervising physician have worked together at the same location for a period of at least three months; ~~and~~

(3) The supervising physician reviews patient care provided by the physician assistant ~~at least weekly as determined to be appropriate by the supervising physician~~; and

(4) The supervising physician ~~signs all reviews~~ reviews a representative sample of patient charts unless the medical record documents that direct consultation with the supervising physician occurred for a period the supervising physician determines is appropriate; ~~or~~

c. The physician assistant and supervising physician provide a written statement sent directly to the board that the physician assistant is qualified to provide the needed medical services and that the medical care will be unavailable at the remote site unless the physician assistant is allowed to practice there. In addition, for three months, the supervising physician must review ~~patient care provided by the physician assistant at least weekly and must sign all~~ a representative sample of patient charts ~~unless the medical record documents that direct consultation with the supervising physician occurred for patient care provided by the physician assistant at least weekly.~~

327.4(2) The supervising physician must visit a remote site or communicate with the physician assistant at the remote site via electronic communications to provide additional medical direction, medical services, and consultation at least every two weeks. For the purposes of this rule, communication may consist of, but shall not be limited to, in-person meetings, two-way interactive communication directly between the supervising physician and the physician assistant via the telephone, secure messaging, electronic mail, or chart review. ~~At least one supervising physician must meet in person with the physician assistant at the remote medical site at least once every six months to evaluate and discuss the medical facilities, resources, and medical services provided at the remote medical site.~~

ITEM 9. Amend rule 645—327.5(147) as follows:

645—327.5(147,88GA,ch1020) Identification as a physician assistant. The physician assistant shall be identified as a physician assistant to patients and to the public, regardless of the physician assistant's educational degree.

ITEM 10. Amend subrule 327.6(1) as follows:

327.6(1) Each written outpatient prescription drug order issued by a physician assistant shall contain the following:

a. to c. No change.

~~d.—When delegated prescribing occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician assistant is prescribing. Notification may include, but is not limited to, including the physician's name on the prescription, including the physician's name in the memo section of an electronic prescription, or providing the physician's name by telephone or other electronic means. If, in an electronic prescription record, the record does not include a dedicated field for the name of the supervising physician, a memo~~

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~~or comment field may be used to record the supervising physician's name by entering the code "SP01" and then the supervising physician's name prior to any other comment in the memo or comment field.~~

~~e. d.~~ The physician assistant's name and the practice address.

~~f. e.~~ The signature of the physician assistant followed by the initials "PA."

~~g. f.~~ The Drug Enforcement Administration (DEA) number of the physician assistant if the prescription is for a controlled substance.

~~All other prescriptions shall comply with paragraph "d."~~

ITEM 11. Amend subrule 327.6(2) as follows:

327.6(2) Each oral prescription drug order issued by a physician assistant shall include the same information required for a written prescription, except for the written signature of the physician assistant and the physician assistant's practice address of the practitioners.

ITEM 12. Amend subrule 329.2(25) as follows:

329.2(25) Representing oneself as a physician assistant when one's license has been suspended or revoked, or when one's license is on inactive status, except as provided by rule 645—326.15(148C,88GA,ch1020).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/20.

ARC 5178C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to electric vehicle fees

The Department of Transportation hereby amends Chapter 400, "Vehicle Registration and Certificate of Title," and Chapter 505, "Interstate Motor Vehicle Fuel Licenses and Permits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 452A.59.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 452A and sections 321.116 and 321.117 and 2019 Iowa Acts, House File 767, sections 1, 2, 4, 5, 23 and 28 to 32.

Purpose and Summary

This rule making updates Chapters 400 and 505 to align the rules with Iowa Code sections 321.116 and 321.117 and chapter 452A as amended by 2019 Iowa Acts, House File 767, sections 1, 2, 4, 5, 23 and 28 to 32. Sections 1, 2, 4 and 5 of House File 767 were effective January 1, 2020. Sections 23 and 28 to 32 have a delayed effective date of July 1, 2023.

Under the legislation, a special annual registration fee for an electric vehicle is required. The fee is in addition to the annual registration fee assessed based on a vehicle's weight and value. The legislation also established an additional registration fee for a battery electric vehicle (BEV) or a plug-in hybrid electric vehicle (PHEV), in addition to the registration fee based on the model year. The legislation was enacted because, while Iowa motor fuel taxes are the largest single source of revenue for road and bridge funding in Iowa, fuel tax revenue is declining as average fuel efficiency is increasing and electric vehicles are entering the market. As a result, increasing and significant losses to critical state road and

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bridge funding has been predicted, especially as more electric vehicles are purchased and their usage increases.

There are three fee levels and three successive implementation dates for electric vehicles, depending upon vehicle type (BEV, PHEV or BEV/PHEV motorcycle), as demonstrated by the following table:

Vehicle Type	January 1, 2020, Fee	January 1, 2021, Fee	January 1, 2022, Fee
BEV	\$65.00	\$97.50	\$130.00
PHEV	\$32.50	\$48.75	\$ 65.00
Motorcycle (BEV or PHEV)	\$ 4.50	\$ 6.75	\$ 9.00

The following paragraphs explain the rule making:

The amendments to rule 761—400.1(321) add a new definition for an “electric vehicle annual registration fee” to describe the new annual registration fee that will be assessed for a BEV and PHEV, in addition to the traditional annual registration fee assessed based on the weight and value of the vehicle. The definition provides that any reference to an annual registration fee in Chapter 400 shall include the electric vehicle annual registration fee, if that is the type of vehicle that is the subject of the registration action, unless otherwise specifically addressed. Also, the amendments to rule 761—400.1(321) modify the definition of “half-year fee” to provide that a half-year fee does not include an electric vehicle annual registration fee because the electric vehicle annual registration fee only applies to vehicles registered under Iowa Code section 321.109(1)“a” and vehicles with half-year registration fees are excluded from registration under Iowa Code section 321.109.

The amendment to subparagraph 400.16(2)“c”(2), which addresses procedures for application for title and registration for a specially reconstructed vehicle, provides that the Department shall determine if the vehicle being examined for purposes of obtaining a title is subject to the electric vehicle annual registration fee.

The amendment to paragraph 400.32(2)“b,” which addresses vehicles owned by nonresident members of the armed services, states that if a nonresident is seeking to register a BEV or PHEV in Iowa under rule 761—400.32(321), the electric vehicle annual registration fee will apply. House File 767 did not authorize the Department to waive electric vehicle registration fees for nonresident members of the armed services. Additionally, the existing rules provide that a person who qualifies to register a vehicle under subrule 400.32(2) is still required to pay the standard registration fee based on the weight of the vehicle.

The amendment to subrule 400.44(1), which addresses penalties on registration fees, provides that if multiple penalties for delinquent registration fees are assessed, such as if an applicant is delinquent on paying the regular annual registration fee and the electric vehicle annual registration fee, then the resultant penalty amounts will be added together first, and the sum will be rounded to the nearest whole dollar.

The amendment to subrule 400.60(1), which addresses credits of registration fees, provides that while there is no credit available for the unexpired portion of the electric vehicle annual registration fee, that fee will still be eligible for a refund under the provisions of rule 761—400.50(321,326). A refund is required in lieu of a credit to allow for the necessary accounting reconciliation for county treasurers collecting registration fees.

The amendments to rule 761—505.1(452A) add definitions for “electric fuel,” “fuel supply tank,” and “hydrogen gallon” to conform with House File 767, which established new definitions for all those terms, and to align with the current Department practice of directing individuals seeking copies of the International Fuel Tax Agreement (IFTA) to the IFTA website.

The amendment to subrule 505.3(2), which addresses non-IFTA member requirements, provides that on or after July 1, 2023, the non-IFTA member must not enter Iowa with more than 350 kilowatt hours of electric fuel, making this provision consistent with the current requirement that a non-IFTA member may not enter Iowa with more than 30 gallons of traditional (non-electric) fuel.

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The amendments to subrule 505.3(3), which addresses the determination of fuel supply process, add a diesel gallon equivalent to the traditional fuel determination and include the method of determination of the fuel supply and amount of fuel for electric fuel.

The amendments to subrule 505.3(9), which addresses temporary fuel permits, align with current procedures in that truck stops are no longer designated by the Department to issue temporary fuel permits. The Department has extensively updated the Department's website to provide for an online application process for temporary fuel permits, in addition to still allowing application by mail or fax. This subrule is also updated to strike outdated procedures related to utilizing Vital Chek and monthly billing options to pay the temporary fuel permit fees.

Finally, the amendments to subrule 505.4(13), which addresses the Department's duty to estimate gallonage to determine tax liability, include the Department's authority to estimate kilowatt hours used, which aligns with the new duty to compute and collect interstate motor fuel taxes on electric fuel.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 15, 2020, as **ARC 5080C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on August 19, 2020.

Fiscal Impact

While the administrative rules themselves do not cause a fiscal impact, the underlying legislation has resulted in approximately \$138,688 in fees being deposited into the Road Use Tax Fund as of June 30, 2020.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 14, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of “Electric vehicle annual registration fee” in rule **761—400.1(321)**:

“*Electric vehicle annual registration fee*” means an annual registration fee for a battery electric or plug-in hybrid electric motor vehicle as provided in Iowa Code sections 321.116 and 321.117. Unless otherwise provided, for purposes of this chapter, any reference to a registration fee shall also include an annual registration fee for a battery electric or plug-in hybrid electric motor vehicle if that vehicle is a

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battery electric or plug-in hybrid electric motor vehicle as defined in Iowa Code sections 321.116 and 321.117.

ITEM 2. Amend rule **761—400.1(321)**, definition of “Half-year fee,” as follows:

“*Half-year fee*” means the first semiannual installment of an annual registration fee but does not include an electric vehicle annual registration fee. The term “half-year registration” shall be synonymous with the term “half-year fee.”

ITEM 3. Amend rule **761—400.1(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23, 321.24, 321.40, 321.45, 321.50, 321.116, 321.117, 321.123, 321.134, 321.157 and 322.2.

ITEM 4. Amend subparagraph **400.16(2)“c”(2)** as follows:

(2) If the vehicle is a passenger-type motor vehicle, the department shall determine its weight and value. The department shall also determine if the vehicle is subject to the electric vehicle annual registration fee. The vehicle weight shall be fixed at the next even 100 pounds above the actual weight of the vehicle fully equipped, as provided in Iowa Code section 321.162. The weight and value shall constitute the basis for determining the annual registration fee under Iowa Code section 321.109, except as provided in Iowa Code section 321.113.

ITEM 5. Amend rule **761—400.16(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.20, 321.23, 321.24, 321.52, 321.109, 321.116, 321.117 and 321.162.

ITEM 6. Amend paragraph **400.32(2)“b”** as follows:

b. The fee for a passenger-type vehicle registered under Iowa Code section 321.109 shall be based only on the weight of the vehicle; the part of the fee based on value shall be excluded. The fees for all other vehicles shall be determined as specified in Iowa Code chapter 321. The registration fee under Iowa Code sections 321.116 and 321.117 shall apply.

ITEM 7. Amend rule **761—400.32(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.53 to 321.55, ~~and~~ 321.109, 321.116 and 321.117.

ITEM 8. Amend subrule 400.44(1) as follows:

400.44(1) Monthly basis. The penalty on the delinquent payment of a registration fee shall be computed on a monthly basis, rounded to the nearest whole dollar. If multiple penalties are assessed, the penalties shall be first added together and then the sum shall be rounded to the nearest whole dollar.

ITEM 9. Amend subrule 400.60(1), introductory paragraph, as follows:

400.60(1) Credit for unexpired registration fee. The applicant may claim credit, as specified in Iowa Code ~~subsection~~ section 321.46(3), toward the registration fee for one newly acquired replacement vehicle. No credit shall be given for an unexpired electric vehicle annual registration fee; however, an unexpired electric vehicle annual registration fee is eligible for a refund as provided in rule 761—400.50(321,326).

ITEM 10. Amend rule **761—400.60(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.46, 321.46A, 321.48, 321.116, 321.117, 321.126 and 321.127.

ITEM 11. Adopt the following **new** definitions of “Electric fuel,” “Fuel supply tank” and “Hydrogen gallon” in rule **761—505.1(452A)**:

“*Electric fuel*” means electrical energy delivered or placed into the battery or other energy storage device of an electric motor vehicle from a source outside the motor vehicle for purposes of propelling the motor vehicle as defined in Iowa Code section 452A.40 as enacted by 2019 Iowa Acts, House File 767, section 23.

“*Fuel supply tank*” means a motor vehicle’s hydrogen fuel cells if the motor vehicle uses hydrogen as a special fuel.

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“*Hydrogen gallon*” means a diesel gallon equivalent. A diesel gallon equivalent of hydrogen weighs 2.49 pounds.

ITEM 12. Amend rule **761—505.1(452A)**, definitions of “IFTA member jurisdiction” and “Non-IFTA member jurisdiction,” as follows:

“*IFTA member jurisdiction*” means a jurisdiction that is a member of the International Fuel Tax Agreement. A list of jurisdictions and their membership statuses may be obtained by contacting the ~~office of~~ vehicle and motor carrier services bureau.

“*Non-IFTA member jurisdiction*” means a jurisdiction that is not a member of the International Fuel Tax Agreement. A list of jurisdictions and their membership statuses may be obtained by contacting the ~~office of~~ vehicle and motor carrier services bureau.

ITEM 13. Amend rule **761—505.1(452A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 452A.2 and 452A.57 and section 452A.40 as enacted by 2019 Iowa Acts, House File 767, section 23.

ITEM 14. Amend rule 761—505.2(452A) as follows:

761—505.2(452A) General information.

505.2(1) Information and location. Applications, forms and information on interstate motor vehicle fuel permits and licenses are available by mail from the ~~Office of Vehicle and Motor Carrier Services Bureau~~, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at ~~(515)237-3224~~ (515)237-3268; ~~or~~ by facsimile at ~~(515)237-3354~~ (515)237-3225; by email at omcs@iowadot.us; or on the department’s website at www.iowadot.gov.

505.2(2) Organizational data. The ~~office of vehicle and motor carrier services of the department’s motor vehicle division bureau~~ bureau is authorized, pursuant to Iowa Code chapter 452A, division III, to:

a. to c. No change.

d. Administer agreements with other jurisdictions for the collection and refund of interstate motor fuel tax. In accordance with this, the department has adopted the International Fuel Tax Agreement (IFTA). Such agreement and any revisions thereto are hereby incorporated into this chapter. International Fuel Tax Agreement governing documents do not create rights in the taxpayer. A copy of the agreement may be obtained by contacting the office of motor carrier services or may be reviewed through the Internet at www.iftach.org.

505.2(3) No change.

This rule is intended to implement Iowa Code sections 452A.51 and 452A.56.

ITEM 15. Amend rule 761—505.3(452A) as follows:

761—505.3(452A) General stipulations.

505.3(1) No change.

505.3(2) Non-IFTA member requirements. The operator of a qualified motor vehicle based in a non-IFTA member jurisdiction must do one of the following:

a. to c. No change.

d. On or after July 1, 2023, enter the state with less than 350 kilowatt hours of electric fuel.

~~*e.*~~ Enter the state with only Iowa tax paid fuel.

505.3(3) Determination of fuel supply.

a. To determine if a vehicle has entered the state with more than 30 gallons of fuel, the total of all fuel in all tanks that could be used to fuel the power source of the vehicle shall be considered to reach a total gallonage, or diesel gallon equivalent. The fuel tank connected to a “reefer unit” which can neither be directly nor indirectly connected to the power source of the vehicle shall not be considered in arriving at the ~~30-gallon~~ 30-gallon total.

b. To determine if a vehicle has entered the state with more than 350 kilowatt hours of electric fuel, the total of all electric fuel in the batteries or other energy storage devices of a commercial motor

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vehicle shall be considered to reach total kilowatt hours, regardless of whether the batteries or storage devices are connected to the motor of the vehicle.

505.3(4) *Fuel license.*

a. A fuel license may be obtained from the ~~office of vehicle and motor carrier services bureau~~ at a cost of \$10. The application must be complete and include, ~~but not be limited to,~~ the following information:

- (1) Name and address of company, corporation, or owner who operates or controls the qualified motor vehicle(s);
- (2) Name(s) and address(es) of principal or corporate officers;
- (3) Signature and telephone number of contact person; ~~and~~
- (4) A power of attorney if someone other than an officer or employee of the company will be completing quarterly reports or requesting information from the department; and
- (5) Any other information required by the department.

b. No change.

505.3(5) No change.

505.3(6) *Possession of the license or temporary permit.* A license or temporary permit must be carried in the vehicle to meet the requirements of Iowa Code chapter 452A. ~~Several vehicles~~ More than one vehicle may be operated and reported under the same license by making a photocopy of the license and carrying it in each vehicle operating under said license. A license, copy of a license or temporary permit is void if altered. A duplicate license may be purchased from the ~~office of vehicle and motor carrier services bureau~~ for ~~a charge of~~ 50 cents.

505.3(7) No change.

505.3(8) *Bond requirements.*

a. and *b.* No change.

c. A copy of such bond shall be filed with the ~~office of vehicle and motor carrier services bureau~~ before a new license shall be issued. The ~~office of vehicle and motor carrier services bureau~~ shall be notified of bond cancellation 30 days before the cancellation is effective.

505.3(9) *Temporary fuel permits.*

a. A temporary fuel permit may be obtained by any person operating a qualified motor vehicle that is not otherwise covered by a license. The temporary permit may be obtained from the ~~office of vehicle and motor carrier services bureau~~ at a cost of \$20. The temporary permit may also be obtained from permit services; or processing agents or truck stops designated by the department. ~~A designated list of authorized business locations may be obtained from the office of motor carrier services upon request.~~ An application for a temporary permit may be made by phone, by facsimile or electronically to the office of vehicle and motor carrier services bureau. Permittees who purchase temporary fuel permits in advance of use may not return unused permits for refund.

b. No change.

~~*c.* Application may be made to the office of motor carrier services or at locations designated by the department. Alternate locations designated shall be approved "truck stops" as defined in Iowa Code section 326.23. These truck stops shall obtain prepaid temporary fuel permits at a cost of \$20 each. If a truck stop subsequently ceases to sell temporary permits, the remaining unissued permits may be redeemed at the office of motor carrier services for the same price paid to obtain them. When a temporary permit is purchased from the truck stop, it shall be issued at a price of \$20 plus any specific cost attributable directly to that purchase. The effective date of a temporary fuel permit shall be the date and hour of purchase from the truck stop.~~

~~*d. c.*~~ *d. c.* An application for a temporary fuel permit shall include, but is not limited to, the following information:

(1) to (3) No change.

~~*e. d.*~~ *e. d.* The temporary permit fee shall also accompany the application unless a method of collection upon delivery is requested.

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~~f. e.~~ A temporary permit shall not be transferred and is valid only for the carrier and the vehicle that are described on the permit. Once a temporary permit has been issued to a qualified motor vehicle, the purchase price is nonrefundable.

~~g. f.~~ The temporary permit must be completed and carried in the qualified motor vehicle for which it is issued.

~~h. g.~~ The 72-hour period for which the temporary permit is valid may be extended for “emergencies,” such as extreme weather conditions when travel is not advisable or other instances, at the discretion of the ~~office of vehicle and motor carrier services bureau~~.

~~i. h.~~ A temporary fuel permit is invalid if the permittee has outstanding IFTA fuel tax bills.

~~j. i.~~ Fees for a temporary permit may be paid by cash, company or personal check, or credit card through Vital Chek. At the discretion of the department, a payment procedure may also be established to allow for monthly billing. The following procedures shall apply:

~~(1) Applicants shall deposit sufficient funds with the permit-issuing authority to guarantee payment of fees for the average number of permits ordered monthly. Deposits may be used to pay outstanding fees due when payment is not received upon billing.~~

~~(2) Monthly billings shall be sent to account holders.~~

~~(3) All future permit activity may be suspended after written notice of suspension to the account holder when the following requirements are not met:~~

~~1. Payment shall be received within 30 days from the date of the billing.~~

~~2. All information listed on the account holder’s permit shall match the information listed on the permit-issuing authority’s permit.~~

~~(4) Account privileges may be permanently canceled for cause after written notice to the account holder.~~

~~(5) Any account holder in good standing may close the account and request return of the deposit. Accounts closed under these circumstances may be reopened.~~

505.3(10) No change.

This rule is intended to implement Iowa Code sections 452A.52, 452A.53, 452A.54, 452A.58 and 452A.68.

ITEM 16. Amend rule 761—505.4(452A) as follows:

761—505.4(452A) Quarterly reports.

505.4(1) to 505.4(5) No change.

505.4(6) *Timely filing of report.*

a. The interstate fuel tax report required under Iowa Code section 452A.54 shall be deemed timely filed if received ~~in by the office of vehicle and motor carrier services bureau~~ or postpaid, properly addressed, and postmarked by the United States Postal Service on or before midnight of the filing deadline. If the filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the filing deadline.

b. All reports and remittances shall be ~~either~~ filed online at the department’s website; mailed to the Office of Vehicle and Motor Carrier Services Bureau, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3257 (515)237-3225.

c. No change.

505.4(7) to 505.4(11) No change.

505.4(12) *Reports, records and variations.* The department shall prescribe and furnish all forms upon which reports, claims for refund, temporary permits, and license applications shall be made under Iowa Code chapter 452A, division III.

a. No change.

b. The fact that the reporting party does not have the prescribed form shall not be an acceptable reason for failure to file. The ~~office of vehicle and motor carrier services bureau~~ may be contacted to request copies of any necessary forms needed.

505.4(13) *Estimating gallonage or kilowatt hours used.*

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a. In the event the taxpayer's records are lacking or inadequate to support any report filed or to determine the tax liability, the department ~~shall have the power~~ is authorized to estimate the gallage or kilowatt hours used upon which tax is due. This estimation shall be based upon such factors as, but not limited to, the following:

(1) to (5) No change.

b. No change.

505.4(14) and **505.4(15)** No change.

505.4(16) *Supplemental billings.* The amount due is payable upon being billed by the ~~office of vehicle and motor carrier services~~ bureau. Billings shall be generated by the department for the collection of additional amounts due in the following circumstances:

a. to f. No change.

This rule is intended to implement Iowa Code sections 452A.54, 452A.55, 452A.60, 452A.61, 452A.63, 452A.64, and 452A.65.

ITEM 17. Amend paragraph **505.6(2)“b”** as follows:

b. If a licensee disputes the findings of an investigation or audit by the department, the licensee may request a hearing to present further evidence, information or records to support the claim. The written request for hearing shall be directed to the attention of the director of the ~~office of vehicle and motor carrier services~~ bureau within 30 days of the date of notice of audit results issued by the department.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/20.

**PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR
ELECTRONIC FORMAT DUE TO COVID-19**

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a notice of intended action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the Internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 110 of the Governor's proclamation of disaster emergency issued August 21, 2020: governor.iowa.gov/sites/default/files/documents/Public%20Health%20Proclamation%20-%202020.08.21_0.pdf.